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DATE	PROCEEDINGS	Date Ord Judgment
3-27-63	Complaint filed,	
3-27-63	Stipulation of counsel as to service of papers in this district filed,	
3-27-63	Motion for preliminary injunction filed, noticed for hearing Apr.25th,9:30	
3-27-63	Summons issued, with 7 copies of summons, complaint, and motion for preliminary injunction, with notice of hearing attached, (Summons and copies delivered to Marshal on 4-1-63)	
4-5-63	Summons returned executed,	
4-23-63	Motion to dismiss filed by defendants,	
4-24-63	Affidavits of MRS. OLLIE MAE DAVIS and MR. ALGEA BOLTON with attachments filed in support of plaintiffs' Motion for preliminary injunction,	
4-25-63	Order entered GRANTING oral motion of plaintiff to substitute Charles E. McNeil as President of Board of School Commissioners in placed of William B. Crane, who was named Chairman; and GRANTING oral motion of plaintiff to amend affidavit of Mrs. Ola Mae Davis within one week. Motion for preliminary injunction submitted on affidavits and taken under submission by the Court and Plaintiffs are allowed to and including May 24, 1963 to file its brief in support of motion and Defendants allowed to and including June 10, 1963 to rile reply brief, see Minute Entry No. 14,972 ,	
4-29-63	Copy of M/E No. 14,972 mailed to all attorneys of record,	
4-26-63	Affidavit of MR. ALGEA BOLTON filed,	
4-26-63	Points and Authorities in Support of Plaintiffs' motion for preliminary injunction filed by plaintiffs,	
5-9-63	Notice of Appeal filed by plaintiffs, Designation of Contents of Record of Appeal filed by plaintiffs, Copy of notice of appeal mailed to Mr. George F. Wood, and Mr. Joseph F. Johnson, attorneys for defendants,	
5-13-63	$250.00 cash/bond on appeal deposited in Registry of Court by appellants, Certificate of Clerk executed as to deposit of $250.00,	
5-17-63	Copy of appellants' mimeographed record on appeal received from appellants' counsel, and filed,	
5-27-63	Judgment of Fifth Circuit Court of Appeals received showing DENIAL of Appellants Petition on Appeal and DISMISSING the Appeal,	
6-10-63	DEFENDANT'S BRIEF filed with certificate of service attached AFFIDAVIT of CRANFORD H. BURNS ~~in support of Defendant's Brief~~ filed,	
6-24-63	Findings and Opinion on Motion for Preliminary Injunction filed, Order entered DENYING motion of plaintiffs for preliminary injunction and setting case for trial at 9:30 a. m. on November 14, 1963. (Minute Entry No. 15247). Copies mailed to attorneys of record,	
6-26-63	Notice of Appeal filed by plaintiffs,	
7-1-63	Copies of Notice of Appeal mailed to George F. Wood and Joseph F. Johnson, Attorneys for Plaintiffs,	
7-3-63	Supplemental Record on Appeal forwarded to CCA, Fifth Circuit.	
~~7-11-63~~	~~Order entered on oral motion of Defendants, GRANTING extension of time of thirty days or to and including the 12th day of August 1963. within which to file answer.~~	

DATE	PROCEEDINGS	Date Judgm

ATTORNEYS IN CIVIL ACTION 3003-63

ATTORNEYS FOR PLAINTIFFS:
Messrs. Jack Greenberg, Jonathan Shapiro, and Michael Davidson,
Suite 1790 - 10 Columbus Circle,
New York, N. Y. 10019

Mr. Vernon Z. Crawford and Mrs. Frankie Fields Smith,
1407 Davis Av.
Mobile, Ala. 36603

ATTORNEYS FOR PLAINTIFF-INTERVENOR, UNITED STATES OF AMERICA:

Mr. Jerris Leonard,
Assistant Attorney General,
Department of Justice,
Washington, D.C. 20530

Messrs. Frank M. Dunbaugh and Walter Gorman,
Attorneys,
The Department of Justice,
Washington, D.C. 20530

Mr. Charles S. White Spunner, Jr.
United States Attorney,
P. O. Drawer "E",
Mobile, Ala. 36601

ATTORNEYS FOR DEFENDANTS, BOARD OF SCHOOL COMMISSIONERS, ET AL:
Messrs. Abram L. Philips Jr. and James D. Brooks,
P. O. Box 2245,
Mobile, Ala. 36601

ATTORNEYS FOR DEFENDANTS-INTERVENORS, TWILA FRAZIER, ET AL:
Mr. Ralph Kennamer, P. O. Box 524, Mobile, Ala. 36601
Mr. Pierre Pelham, P. O. Box 291, Mobile, Ala. 36601

ATTORNEY FOR APPLICANTS FOR INTERVENTION, MOBILE COUNTY COUNCIL OF PARENT-TEACHER ASSOCIATIONS, ET AL:
Mr. Samuel L. Stockman,
P. O. Box 4483,
Mobile, Ala. 36604

ATTORNEY FOR APPLICANTS FOR INTERVENTION AS PLAINTIFF-INTERVENOR, NATIONAL EDUCATION ASSOCIATION, INC., and INTERVENOR, ALABAMA STATE TEACHERS ASSOCIATION, INC.:
Mr. Solomon S. Seay Jr.,
352 Dexter Av.
Montgomery, Ala. 36104

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Or Judgment
7-11-63	JUDGMENT and ORDER under Mandate of Fifth Circuit Court of Appeals dated July 9, 1963 entered by Judge Thomas restraining and enjoining the Defendant, Board of School Commissioners of Mobile County and its members from requiring and permitting segregation of the races in any school under their supervission, from and after such time as may be necessary to make arrangements for admission of children to such schools on a racially non-discriminatory basis with all deliberate speed; and further ordered that the defendants are required to make an immediate start in desegregation of schools of Mobile County and that a plan be submitted not later than August 1, 1963, etc., See Minute Entry No. 15,289 ,	
7-11-63	Six copies of Judgment and Order delivered to U. S. Marshal for service on each member of Board of School Commissioners of Mobile County, and Cranford H. Burns, its Superintendent.	
7-11-63	Copies of M/E No. 15,289, mailed to all attorneys of record,	
7-11-63	Order entered on oral motion of Defendants, GRANTING extension of time of thirty days , or to and including the 12th day of August 1963, within which to file answer, Minuet Entry No. 15,293,	
7-15-63	Copies of order mailed to attorneys (5),	
7-15-63	Returnsof Marshal filed, showing service of Order on EACH defendant,	
7-19-63	Copy of OPINION-ORDER on Petition for Rehearing received and filed as Mandate from CCA, which amends judgment and order of July 9, 1963 so that the"plan shall be submitted to the District Court not later than August 18, 1963...to provide for carrying into effect not later than beginning of school year September 1963 and thereafter of the Alabama Pupil Placement Law as to all school grades without racial discrimination...".	
7-26-63	Order entered AMENDING judgment and order entered July 11, 1963 according to Opinion-Order of CCA filed 7-19-63. (Minute Entry No. 15391).	
7-31-63	Copies of order mailed to attorneys of record, (5 firms)	
8-7-63	Motion filed by defendants to defer desegregation of rural schools in Mobile County until September, 1964, noticed for hearing on August 12, 1963, at 9:30 A. M.	
8-12-63	ANSWER of defendants filed, with certificate attached,	
8-12-63	ORDER entered GRANTING defendants motion to defer desegregation of rural schools in Mobile County until September, 1964 and designating ALL schools outside the City Limits of the City of Mobile as rural schools for the purposes of this order, see Minute Entry No. 15,473 ,	
8-13-63	Copy of M/E No. 15,473 mailed to all attorneys,	
*8-12-63	Affidavit of Cranford H. Burns and Affidavit of C. L. Scarborough filed,	
8-15-63	Motion for Hearing immediately after the Defendant submit a plan for desegregation of schools of Mobile County, Alabama filed by Plaintiffs,	
8-19-63	Plan submitted by the Board of School Commissioners of Mobile County pursuant to Order Dated July 11,1963,as amended July 26,1963, filed,	

(Continued to next page)

DATE	PROCEEDINGS	Date Order Judgment N
8-21-63	Plaintiffs' objections to defendants' Plan of Desegregation filed,	
8-21-63	Transcript of proceedings had before Hon. Daniel H. Thomas at hearing on Aug. 21, 1963, filed,	
8-21-63	Order of Submission on Plaintiff's objections to Plan of Desegregation as filed on Aug. 19, 1963, see Min. Entry No. 15,492	
8-23-63	Order entered Approving Plan of Desegregation as filed on Aug. 19, 1963 with exceptions of two amendments as set out in this order, see Minute Entry No. 15,506 ,	
8-23-63	Copies of Min. Entry Nos. 15,492 and 15,506 mailed to attorneys,	
8-28-63	Notice of Appeal filed by plaintiffs, Copies mailed to Messrs. George F. Wood and Joseph F. Johnson, Attorneys for Defendants.	
9-3-63	Plaintiffs' Designation of Contents of Record on Appeal filed,	
9-9-63	Motion for Issuance of Order to Show Cause filed by plaintiffs, with Affidavit of Clarence E. Moses, Affidavit of Vernon Z. Crawford, Executive Order # 12 of Governor of Alabama, attached, Order to Show Cause issued by Judge Daniel H. Thomas, set for hearing at 3:00 p. m. on September 16, 1963, directed to Governor George C. Wallace, (Minute Entry No. 15,555). Motion for temporary restraining order filed by plaintiffs, Temporary Restraining Order issued, restraining Governor Wallace from interfering with desegregation of Murphy High School, etc. (Minute Entry No.15,555). Bond on issuance of temporary restraining order filed in sum of $1,000.00, 9 copies of motions, affidavits, and orders issued to Marshal for service on Governor Wallace, et al.	
9-13-63	Marshal's return of service of motions and order to show cause and restraining order on Governor Wallace by service on his executive secretary and on Governor Wallace personally, filed,	
9-16-63	Order entered CONTINUING and RE-SETTING hearing on motion for order to show cause to September 26, 1963 at 9:30 a.m. and continuing temporary restraining order entered 9-9-63; (Minute Entry No. 15,590).	
9-18-63	Copies mailed to attorneys of record,	
9-20-63	Order entered, on oral motion of Mr. D. R. Coley, extending time within which George C. Wallace may file responsive pleadings to Order to Show Cause etc. to and including September 26, 1963. (Minute Entry No. 15621).	
9-23-63	Copies mailed to attorneys of record,	
9-26-63	Responsive pleading on Hon. George C. Wallace, Governor of Alabama filed this date,	
9-26-63	Return of U. S. Marshal filed, showing service of Motion for Restraining order, Restraining Order, Motion for Order to Show Cause, and Order to Show Cause on Charles E. McNeil, Jack C. Gallalee, Arthur Smith, William B. Crane, Kenneth Reed, Dr. Cranford Burns, and Joe Smelley, member of Alabama Highway Patrol.	
9-26-63	Order entered CONTINUING hearing on motion for order to show cause pending further orders of the court, (Minute Entry No. 15,674)	

DATE	PROCEEDINGS
9-27-63	Copies of order of continuance mailed to attorneys,
9-27-63	Certified Supplemental Record on Appeal mailed to U.S.Court of Appeals, Fifth Circuit,
11-8-63	Motion for leave to amend Answer filed by defendants and Order entered granting same, Min. Entry No. 15,870 ,
11-8-63	AMENDMENT TO ANSWER filed by defendants, Copy of M/E No. 15,870 and Amendment to Answer mailed to Attys. for Plaintiff,
11-12-63	Motion for Discovery filed by Defendants and set down for hearing on Nov. 14, 1963 at 9:30 A.M., by Judge Daniel H. Thomas, Copy of Motion for Discovery and notice of setting mailed to attorneys of record,
11-13-63	Motion for order of this Court authorizing and permitting the introduction into evidence in trial of this case certain testimony taken in the trial of Ralph Stell, et al., vs. The Savannah-Chatom County Board of Education, et al. in the Sou. Dist. of Georgia, filed with Affidavit of GEORGE F. WOOD attached,
11-14-63	Plaintiffs' Plan of Desegregation filed with certificate attached,
11-14-63	Motion to Strike Defendants' Amendment to Paragraphs 9, 10 and 11 of Answer filed by Plaintiffs' with Memorandum Brief in support thereof attached, certificate of service attached,
11-14-63	Trial of Merits begun, Motion to Dismiss complaint filed by Defendants' on 4-23-63 taken under submission and the trial of this case not being completed said trial is recessed until November 15, 1963 at 9:30 a.m., Min. Entry No. 15,890-A ,
11-15-63	Trial resumed, witnesses further examined, and Plaintiffs' motion strike Defendants' Amendment to Para. 9, 10 and 11 filed on 11-14-63 is Denied; and this case is TAKEN UNDER SUBMISSION by the Court, Min. Entry No. 15,897 ,
11-29-63	Transcript of proceedings had before Judge Thomas, U. S. District Judge at Mobile, Alabama, on November 14 and 15, 1963.
11-13-63	Order entered GRANTING motion for order of Court authorizing and permitting the introduction into evidence in trial of this case certain testimony taken in the trial of Ralph Stell,et al., vs. The Savannah-Chatom County Board of Education, et al. in the Sou. Dist. of Georgia, filed with affidavit of George F.Wood,atta See Minute Entry No. 15,886-A ,
6-19-64	JUDGMENT and ORDER under Mandate of Fifth Circuit Court of Appeals dated June 18, 1964 received and filed showing following ruling to-wit; "It is now ordered and adjudged by this Court that this cause be, remaned to the said District Court with instructions to require the Board of School Commissioners of Mobile County, Alabama to present to the District Court forthwith its consideration a plan of desegregation which will meet the minimum standards set forth and outlined in the Birmingham case, being cause No. 20595 on the docket of this Court. The order of the Distric Court heretofore entered on June 24, 1963, denying injunctive relief, is vacated; the orders of the said District Court entere on July 11 and 26, 1963, pursuant to the mandate of this Court (continued to next page)

DATE	PROCEEDINGS	Date Orde Judgment I
6-19-64	in this case, are continued until modified by the District Court, all in accordance with the opinion of this Court;" "It is further ordered and adjudged that the appellees, Board of School Commissioners of Mobile County, and others be condemned, in solido, to pay the costs of this cause in this Court, for which let execution issued out of the ssid Distrixt Court."	
6-29-64	Order entered by Thomas, Judge, requiring submission of plan for desegregation in accordance with opinion and mandate of CCA rendered and issued June 18, 1964, requiring Board of School Commissioners to submit on or before July 17, 1964 a plan for desegregation in accordance with the opinion and mandate of CCA, hearing on any objections filed to said plan to be heard on July 29, 1964. (Minute Entry No. 16,900).	7 9.
6-30-64	Copies of order mailed to all attorneys of record,	
7-8-64	Defendants' motion to extend time for the Defendants to submit a Plan for Desegregation, from July 17th, 1964, in order for the U.S.Court of Appeals to rule on the Defendants' Petition for a Re-Haaring, etc., filed,	
7-11-64	Order entered AMENDING court's order of June 29, 1964 to extend the time for filing of a desegregation plan from "on or before July 17, 1964" to "on or before the 21st day of July 1964". (Minute Entry No. 16,941)	
7-13-64	Copies mailed to attorneys of record,	
7-14-64 (x)	Plaintiffs' Response to Defendants' Motion for an extension of time in which to present a plan of desegregation filed,	
7-31-64	Order Approving Plan as Modified, Min. Entry No. 17,016. Copy of M.E. 17016 mailed to Messrs. George F. Wood and Vernon Z. Crawford on July 31, 1964.	
(x) 7-21-64	Amendment to Plan Submitted by the Board of School Commissioners of Mobile County, Pursuant to Order Dated June 29, 1964, with Certificate of Serfvice	
7-27-64	Plaintiffs' Objections to Desegregation Plan submitted by the Defendant Board of School Commissioners of Mobile Cou nty and Motion for a Revised Plan, with Certificate of Service.	
12-21-64	Motion filed by plaintiffs for Further Relief,	
12-23-64	Interrogatories propounded to defendants filed by plaintiffs,	
12-30-64	Motion for Additional Time to Answer Interrogatories filed by defendants, noticed for hearing at 9:30 A.M. January 5, 1965.	
1-6-65	Plaintiffs' response to Defendants' motion for additional time to answer Interrogatories,SHOWING NO OBJECTION to the granting of motion and extension filed,	
1-6-65	Order entered GRANTING defendants' motion for extension of time to JANUARY 25, 1965 within which to answer plaintiffs' interrogatories. (Minute Entry 17,752).	
1-14-65	Copies mailed to attorneys,	
1-20-65	Notice to withdraw his name as counsel for defendants filed by Mr. Joseph F. Johnston, Attorney.	
1-26-65	ANSWERS TO INTERROGATORIES filed by defendants.	
2-23-64	Defendants answer to motion for further relief filed,	

(SEE NEXT PAGE)

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	D Jud
2-26-65	Hearing on Plaintiff's motion for further relief,witnesses examined, exhibits offered in evidence and order entered continuing hearing to Friday Morning,March 5,1965,at 9:30 A.M.,(MINUTE ENTRY NO.17975),	
3--5-65	Copy of M.E.NO.17975 mailed to all Attorneys,	
3-5-65	Hearing on Plaintiffs' motion for further relief resumed,witnesses further examined, exhibits offered in evidence and case taken under SUBMISSION, (MINUTE ENTRY NO.17994),	
3-10-65	Copy of M.E.NO.17994 mailed to all Attorneys,	
3-15-65	BRIEF of defendants, opposing motion, filed, and delivered to Judge,	
3-15-65		
3-23-65	MAP of City of Mobile showing the re-drawn attendance areas for elementary schools filed by defendants,	
3-30-65	Transcript of proceedings had before Judge Daniel H. Thomas at Mobile, Alabama on February 26 and March 5, 1965 filed by Court Reporter,	
3-31-65	Findings of Fact and Conclusions of Law filed by Thomas, Judge,	
	DECREE entered by court, on plaintiffs' motion for further relief and on defendants' answer thereto, etc. striking provision in Plan that requires return of completed form in person, and striking criteria for transfer in the Plan designated (i), (l), (m) and (n), directing Board to give reasonable notice to school patrons of terms and time limitations of the Plan, and approving desegregation plan of the Board in all other respects, as constitutional and non-discriminatory, and except as ordered, motion of plaintiffs denied. (Minute Entry No. 18,144).	
4--2-65	Copies of Findings, Conclusions and Order mailed to attorneys of record. mpcox.	
4-14-65	NOTICE OF APPEAL filed by Birdie Mae Davis, et al,	
4-14-65	Copy of Notice of Appeal mailed to George F. Wood and D.R.Coley,Jr.,	
4-23-65	Appellant's Designation of Contents of Record on Appeal filed,	
5-24-65	Order entered extending time for filing and docketing Transcript of Record in the U.S.Court of Appeals,New Orleans, Louisiana,to, and including the 13th day of July,1965,(MINUTE ENTRY NO.18445),	
5-26-65	Certified copy of Notice of Appeal and Order Extending Time,etc., mailed to Clerk,U.S.Court of Appeals,Fifth Circuit,New Orleans, Louisiana,	
5-26-65	Copy of Minute Entry No.18445 mailed to Derrick A.Bell,jr.,Vernon Z.Crawford,Clarence E.Moses,George F.Wood and D.R.Coley,Jr.,	
5-26-65	Motion filed by plaintiffs for refund of $1,000.00 cash bond,	
6--1-65	Copy of motion of 5-26-65 mailed to defendants' attorneys,	
6-28-65	Motion for refund of $1,000.00 submitted without argument,	
7-7-65	Certified copy of Original Transcript of Record on Appeal mailed to Clerk,U.S.Court of Appeals,New Orleans,La.,and 2 packages of exhibits mailed via Parcel Post,Under separate cover,	
7-7-65	Copy of letter of transmittal mailed to Derrick A.Bell,Jr.,Vernon Z.Crawford,Clarence E.Moses and George F.Wood,	
8-12-65	Order entered GRANTING Plaintiffs' motion for refund of $1,000.00 cash bond and directing Clerk to draw and sign a check on the Registry Account in the sum of $1,000.00, payable to Vernon Z.	

DATE	PROCEEDINGS	Date Orde Judgment ?
8-12-65	Crawford, As Attorney for Plaintiffs, (MINUTE ENTRY NO.19902),	
8-16-65	Copy of M.E.NO.19902 mailed to Attorneys, (5),	
10-6-65	Defendants-~~Appellees~~' Additional Designation of Record on Appeal filed, and request for permission to send exhibit to U.S.Court of ~~Appeals~~	
10-6-65	Order entered granting ~~Appellees~~' request that a map of the City of Mobile,showing the re-drawn attendance areas be certified up to the U.S.Court of Appeals, Fifth Circuit, New Orleans, Louisiana, (MINUTE ENTRY NO. 19143),	
10-8-65	Copy of M.E.NO.19143 mailed to George F. Wood,Jack Greenberg, Vernon Z. Crawford, Clarence E. Moses and Derrick A.Bell,jr.,	
10-11-65	Certified copy of Appellees' Additional Designation of Record on Appeal,order entered granting the permission to file additional designation of record and ORIGINAL PLEADING, together with MAP, MARKED EXHIBIT "A" all sent to Clerk, U.S.Court of Appeals,Fifth Circuit,New Orleans, Louisiana, and letter of transmittal,(copy) mailed to Attorneys, (4),i.e.,G.F.Wood, Jack Greenberg,Vernon Z.Crawford,Clarence E.Moses and D.R. Coley,Jr.,	
8--17-66	Judgment of CCA received, reversing and remanding district court. Opinion of CCA received,	
8-17-66	Order entered by Thomas, Judge, pursuant to opinion and mandate of CCA directing appellees (respondents) to file modifications of its Plan for desegration in order to conform with order of appellate court, (Minute Entry No. 20703)	
8-17-66	Service of copy of order accepted by George F. Wood, Attorney for defendants,	
8-17-66	Copy mailed to attorneys Derrick A. Bell, Jr., Vernon Z. Crawford, Clarence E. Moses, and D. R. Coley, Jr.	
8-19-66	Motion for an extension of time of 60 days within which to file an overall plan to incorporate the addition requirements by the Court of Appeals, filed by the defendant,	
8-19-66	Order by the Court granting motion for additional time in which to file an overall desegregation plan is GRANTED and defendants have and until and including Oct. 19, 1966, in which to file such plan; Modifications filed Aug. 19, 1966, in response to an order entered Aug. 17, 1966, directing that such modifications be submitted are hereby APPROVED, Min. Entry No. 20,719. Copy of M.E. 20719 mailed on Aug. 19, 1966, to Messrs. Derrick A. Bell Jr., Vernon Crawford, Clarence E. Moses, George F. Wood, and D.R. Coley Jr.	
8-26-66	Motion filed Aug. 26, 1966, by the Plaintiffs for Further Relief, with Certificate of Service	
8-30-66	Motion filed Aug. 26, 1966, by the Plaintiffs for Further Relief is DENIED, Minute Entry No. 20,775 . Copy mailed on Aug. 30, 1966, to Messrs. Vernon Z. Crawford and George F. Wood.	
8-30-66	8-30-66- Notice of Appeal filed to order denying further rel	
9-2-66	Motion to Dismiss the appeal filed on Aug. 30, 1966 filed, by plaintiff	
9-2-66	Order entered GRANTING the mobion to dismiss the appeal(M/E No. 20804)	
9-7-66	Copy of M/E mailed to Derrick A. Bell, Jr., Clarence E. Moses, George F. Wood, D. R. Coley, Jrr, and Vernon Z. Crawford, attorneys,	

(SEE NEXT PAGe) (SEE NEXT PAGE)

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS
10-19-66	School Attendance Plan filed Oct. 19, 1966, by Defendants to have effect in the schools of Mobile County for School Year 1967-68, with Certificate of Service.
4--18-67	Motion for Further Relief filed by plaintiffs, requesting a 30 day registration period commencing May 1, 1967 for the 1967-68 school year, and to enter the decree proposed by the U.S.Court of Appeal in its decision in the Jefferson County case, as the desegregatio plan in the present case,
4-25-67	Motion to Strike filed by defendants with answer to the Motion for Further Relief filed by plaintiffs on 4-18-67,
5-8-67	Plaintiff's interrogatories to defendants, filed
5-15-67	Objections to Interrogatories filed by defendants,
5-22-67	Notice of taking oral deposition of Sam H. Stout, Joseph W. LuQuire, Joseph A. McPherson and Cranford H. Burns filed by plaintiffs,
5-22-67	Motion that Depositions not be taken, filed by the defendants,
5-23-67	Answers Filed by the Defendants to the Interrogatories propounded by the Plaintiff, with Certificate of Service.
5-26-67	Motion for continuance of hearing on plaintiffs' Motion for Further Relief and defendants' Motion to Strike filed by attorneys for defendants, Motion for continuance of depositions scheduled on May 31, 1967 filed by defendants' attorneys,
5-29-67	ORDER entered, Motion for continuance of hearing and motion for continuance of depositions filed by the defendant on May 26, 1967 is GRANTED. See M/E no. 22,175
5-29-67	Motion to Modify subpoenas duces tecum filed by defendants,
6-7-67	Copy of M/E 22, 175 mailed to each attorney,
6-7-67	Notice of taking of depositions of DR. CRANFORD H. BURNS, JAMES A. McPHERSON, JOSEPH LUQUIRE, and SAM H. SHOUT on June 15, 1967 at 9:30 A. M. filed by plaintiffs.
6-14-67	Motion to intervene as plaintiff filed by United States of America, Supporting Memorandum filed by U.S., Motion for Supplemental Relief filed by U.S.,
6-14-67	Order entered, after argument in open court, GRANTING motion to modify subpoenas duces tecum, and limiting production of documents to 1966-67 except attendance areas and feeder patterns prior to year 1966-67, and limiting evidence as to school construction, school closings and school consolidations, to the year 1964-65 and succeeding years. (Minute Entry 22244).
6-14-67	Order entered GRANTING motion of United States to intervene as plaintiff, and notices mailed. Copy of Minute Entry 22244 mailed to attorneys of record.
6-14-67	Certificate of service as to Motion for leave to intervene, etc. filed by intervenor-plaintiff,
6-20-67	Motion to limit the testimony of the witness Sam Shout filed by defendants. Oral order issued granting motion to limit testimony.
6-20-67	Notice of motion and Motion for Production of Records under Rule 34, F.R.C.P. filed by plaintiff-intervenor, United States of America,
6-22-67	Motion to Limit the Testimony of the witness Cranford H. Burns filed by the defendants,

DATE	PROCEEDINGS	Date Ord Judgment
6-22-67	Motion to have Intervenor's motion for production of documents set upon the regular motion docket for hearing filed by defendants,	
6-22-67	Motion in Opposition to Defendants' Motion to set Intervenor's motion for production of documents upon the regular motion docket for hearing filed by United States of America, Intervenor,	
7--18-67	Amended Motion for further relief or, on the alternative,	
	Motion in opposition to Defendants' "School Attendance Plan", filed in open court by plaintiffs,	
	Motion to quash or modify subpoena duces tecum served upon Cranford Burns et al. filed by defendants	
	Motion to strike the Motion for Supplemental Relief filed by Plaintiff-Intervenor on June 14, 1967, filed in open court,	
	Motion to suppress deposition of CRANFORD H. BURNS filed by defendants,	
	Motion to suppress deposition of JAMES A. McPHERSON filed by the defendants,	
	HEARING begun on Plaintiffs' Motion for Further Relief, witnesses examined and exhibits offered, and hearing continued until July 19, 1967 at 9:30 A. M. (Minute Entry No. 22,389-B).	
7--19-67	Motion to compel answers to Plaintiffs' Interrogatories filed by plaintiffs, in open court,	
	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 20, 1967 at 9:30 A. M. (Minute Entry No. 22,391-A)	
7-20-67	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 24, 1967 at 9:30 A.M. (Minute Entry No. 22,396-A)	
7-24-67	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 25, 1967 at 9:30 A.M. (Minute Entry No. 22,402-A)	
7-25-67	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 26, 1967 at 9:30 A.M. (Minute Entry No. 22,403-C)	
7-26-67	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 27, 1967 at 9:30 A.M. (Minute Entry No. 22,405-A)	
7-27-67	HEARING on motion for further relief resumed, witnesses further examined and exhibits offered in evidence, and hearing recessed until July 28, 1967 at 9:30 A.M. (Minute Entry No. 22,408-A)	
7-27-67	Motion to suppress deposition of SAM SHOUT filed by defendant	
	Motion to suppress deposition of JOHN R. MONTGOMERY filed by defendant,	
7-28-67	Response to plaintiff's motion to cmmpel answers to interrogatories filed by defendant,	
7-28-67	HEARING on motion for further relief resumed, all parties rests case taken under submission, plaintiffs and plaintiff-intervenor given until Aug. 7, 1967 to file their briefs, defendant given until Aug. 15, to file its brief, see Minute Entry No. 22,417-A,	
8--4-67	Copy of M/E 22,417 mailed to attorneys,	
8--7-67	Plaintiffs' Brief, Memorandum of Law, Plaintiffs' Proposed Decree, and Certificate of Service filed,	
8--7-67	Plaintiff-Intervenor's Trial Brief filed, with Proposed Decree and Appendices to Plaintiff-Intervenor's Trial Brief,	
8--8-67	(All above-listed briefs, etc. placed in Judge Thomas' box)	

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	D Ju
8-14-67	Copy of Proposed Findings of Fact and Conclusions of Law filed by Plaintiff-Intervenor,	
8-18-67	Amendments to Plaintiffs' Proposed Decree, filed on August 18, 1967, by the Plaintiffs, with Certificate of Service Arguments of counsel heard by court,	
8-24-67	Interim Order issued by Court relative to changes in attendance area boundary lines, setting special transfer period for August 28-31, during which time applications for transfers may be made to afford students whose places of residence have been changed from one elementary attendance area to another to transfer to the school serving the attendance area in which their residence now lies, etc. (Minute Entry No. 22,522). Notice to be published in paper, attached to order, approved by Judge Thomas.	
8-25-67	Copies of order with notice attached mailed to all attorneys of record.	
8-28-67	Notice of Appeal from order entered on August 24, 1967 filed by plaintiffs,	
10-5-67	Partial Transcript of Trial filed,	
9--1-67	Notice of Appeal from order entered on August 24, 1967 filed by plaintiff-intervenor, the United States of America,	
10-4-67	Following documents filed by defendants: 1. Affidavit of Judson R. Martin, Jr. 2. Affidavit of Sam H. Shout 3. Affidavit of Angie Russell Holmes with copy of display ad 4. Affidavit of E. E. Koch attesting to publication of display advertising 5. Affidavit of E. E. Koch with attached map of Mobile County 6. Affidavit of E. E. Koch with map of elementary attendance areas.	
10-5-67	Transcript of Record mailed to U. S. Court of Appeals, New Orleans,	
10-13-67	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE entered on plaintiffs' motion for further relief, as amended, and plaintiff-intervenor's motion for Supplemental Relief, directing defendants to provide option plan, publish notices, to file annual reports to the court, etc., and APPROVING defendant's desegregation plan filed on October 19, 1966, with certain requirements for the operation of the plan, and in all other respects, except the relief included in interim order of 8-24-67, DENYING plaintiff's motion for further relief and plaintiff-intervenor's motinn for supplemental relief. (Minute Entry No. 22,815)	
10-13-67	Copy of Findings, Conclusions and Order delivered to U. S. Marshal for service on defendant,	
10-13-67	Copies of Findings, Conclusions and Order deliveredto Abe L. Philips, and Vernol R. Jansen, Jr.; copies mailed to Attorneys Charles Jones, Vernon Crawford, Walter Gorman. mpcox	
10-16-67	Return on Service of Writ filed by U.S.Marshal, showing service of Order etc. on Board of School Commissioners of Mobile County, Ala. by service on Mr. J. A. McPherson, Associate Superintendent,	
10-17-67	Notice of Appeal from Findings of Fact, Conclusions of Law and Decree entered on October 13, 1967, filed by Plaintiff-Intervenor, U. S.	
10-17-67	Transcript of record on appeal received from CCA for use of attorneys in preparing supplemental briefs,	
10-18-67	Copy of order entered by CCA received, continuing appeals, to be reset for hearing at earliest possible date after November 15, 196	

DATE	PROCEEDINGS	Date Ord Judgment
	and providing for filing of supplemental briefs, etc.	
10-26-67	Notice of Appeal filed by the Plaintiffs, from the Decree 10-13-67,	
11-14-67	Partial transcript of trial filed, sent to Court of Appeals 11-15-67	
12-12-67	Balance of transcript sent to Court of Appeals,	
2--20-68	Application for approval of proposed expansion of school building facilities at Toulminville High School, filed by defendant on February 20, 1968.	
3--4-68	Opposition to Defendants' Application for Approval for Proposed Expansion, filed by Plaintiffs.	
3--4-68	Response of Plaintiff-Intervenor U. S. to Defendants' Application for approval of expension plans, filed,	
4-22=68	Application for approval of proposed construction on the Howard Elementary School site, filed by defendant on April 22, 1968,	
5--7-68	Certified copy of judgment,court of appeals, rendered May 6, 1968, received and filed, REVERSING district court and REMANDING case for entry of decree attached to opinion of appeal court, and taxing costs of cause against appellees, Board of School Commissioners, et al. (CCA costs) (Appeal Court No. 25,162)	
5--7-68	Certified copy of judgment, Court of Appeals, issued May 6, 1968, received and filed, DENYING appellee's motion for rehearing, but modifying Decree issued for entry by the District Court in certain respects. (Appeal Court No. 25,175)	
	Hearing begun in open court on pending motions, witnesses examined, exhibits offered in evidence, and following motions taken under SUBMISSION: (1) Application for approval of proposed expansion of school building facilities at Toulminville High School,filed 2-20-68; (2) Opposition to Defendants' Application, filed 3-4-68; (3) Response of Plaintiff-Intervenor to Defendants' Application, filed 3-4-68; (4) Application for approval of proposed construction on the Howard Elementary School site, filed on 4-22-68. (M/E 23781-C)	
5-15-68	Copies of M/E 23,781-C mailed to all attorneys of record,	
5-13-68	DECREE entered by Thomas, Judge, pursuant to opinion and judgment of CCA, Fifth Circuit, (Minute Entry No.23782-C)	
5-17-68	Copies of decree mailed to all attorneys of record.	
5-17-68	OBJECTIONS to survey information submitted by defendants and Motion to continue the hearing presently scheduled for May 27, 1968 filed by plaintiff-intervenor, United States of America.	
5-21-68	Plaintiffs objections to survey information submitted by defendant and motion to continue hearing Scheduled May 27, 1968, filed,	
5-22-68	Deposition of Dr. Frederick P. Venditti filed by plaintiff-intervenor,	
5-22-68	Motion filed May 22, 1968, by the Defendants for a Continuance, with Certificate of Service	
5-22-68	Motion to continue hearing filed by plaintiff-intervenor 5-17-68 GRANTED; Motion to continue hearing filed by plaintiffs on 5-21-68 GRANTED; Motion to continue hearing filed by defendants on 5-22-68 GRANTED.	

DATE	PROCEEDINGS
5--7-68	Following maps filed in open court by defendant: Map No. 1, Elementary Areas Map No. 2, Junior High Areas Map No. 3, Senior High Areas Map No. 4, Pupil Population, Senior High Grades, (10-12), Map No. 5, Pupil Population, Junior High Grades, (7-9), Map No. 6, Pupil Population, Elementary Grades, (1-6), Map No. 7, Pupil Population, Senior High Grades, (10-12), Map No. 8, Pupil Population, Elementary Grades (1-6), Map No. 9, Pupil Population, Junior High Grades, (7-9),
5-29-68	Application to intervene as party defendants filed by Twila Frazier,
6--1-68	Information pursuant to Decree entered by Court on May 13, 1968 filed by defendants,
6-10-68	Motion for Further Relief filed by the Plaintiffs
6-12-68	Motion filed June 12, 1968 by the Defendants to reject the proposed revisions of attendance area boundaries and feeder patterns and to approve the desegregation plan attached to the Motion, with Certificate of Service
6-17-68	Memorandum in opposition to Motion to Intervene filed by Plaintiffs,
6-21-68	Order entered GRANTING petition for intervention, filed on May 29, 1968 and continuing hearing set for June 26, 1968 until a later date; Minute Entry No. 23,968,
6-26-68	Copies mailed to attorneys,
7-1-68	Opposition to defendants' motion to reject their proposed zone lines filed by plaintiffs, Reporter's transcript of conference of attorneys filed,
7-1-68	Interrogatories propounded to defendant filed by plaintiff-intervenor United States of America,
7-15-68	Motion for extension of time to answer Interrogatories No. 34, 35, 36, 37 & 38, filed by defendants, Notice of substituting maps of school attendance zones filed by defendants, Summary of Enrollment and Utilization of Facilities by Schools filed by defendants,
7-16-68	Answer to interrogatories propounded by Plaintiff-Intervenor filed by defendant, Board of School Commissioners,
7-17-68	Motion to dismiss complaint of Defendants-Intervenors, or, in the alternative, to Strike Allegations from the complaint, Trial on merits begun; witnesses examined, exhibits offered and trial RECESSED until July 18, 1968 at 9:30 A. M. (M/E # 24,059-A)
7-18-68	Trial resumed; witnesses examined, exhibits offered in evidence, and trial RECESSED until July 19, 1968 at 9:30 A. M. (M/E # 24,060-A)
7-19-68	Trial resumed; witnesses examined, exhibits offered, etc. and trial RECESSED until July 22, 1968 at 9:30 A. M. (M. E. No. 24062-B)
7-22-68	Trial resumed; witnesses examined, exhibits offered in evidence, and trial RECESSED until July 23, 1968 at 9:30 A. M. at 9:30 A. M. (Minute Entry No. 24,065-A)
7-23-68	Trial resumed; Motion filed in open court by defendant Board of School Commissioners to quash subpoena duces tecum issued to Dr. Cranford Burns at request of U. S.,

DATE	PROCEEDINGS	Date Or Judgmen
	Witnesses examined and exhibits offered in evidence for plaintiff;	
7-23-68	The trial not being completed at 4:30 P. M., trial RECESSED until July 24, 1968 at 9:30 A. M. (Minute Entry No. 24,073)	
7-24-68	Notice of taking deposition of Dr. Ernest Stone filed in open court by defendant Board of School Commissioners,	
	Trial resumed; witnesses further examined and exhibits offered in evidence on behalf of plaintiff-intervenor and plaintiff-intervenor rests. Defendant-Intervenors' witnesses and exhibits offered in evidence and defendant-intervenors rest All parties rest. At 4:10 P. M. case ordered taken under SUBMISSION by the Court. (Minute Entry 24,075).	
7-25-68	Order for disposition of exhibits offered at hearing held on July 18, 19, 20, 24, 25, 26, 27 and 28, 1967, directing their return to respective attorneys of record. (Minute Entry No. 24,077).	
	Copy of this order mailed to attorneys Jones, Dunbaugh, Jansen and Phillips on 7-30-68. wet.	
7-29-68	OPINION and DECREE entered by Thomas, Judge, permanently enjoining defendants from discriminating on the basis of race or color in the operation of the school system, and to take affirmative action to disestablish all school segregation and to eliminate the effects of the dual school system as to desegregation, exercise of choice, transfers, prospective students, and providing for a report to the court on or before December 16, 1968, etc. (Minute Entry No. 24,086).	
	Copies mailed and furnished to all attorneys of record.	
7-31-68	Motion for Modification of Decree filed by U. S. plaintiff-Intervenor, with proposed order of modification attached,	
7-31-68	Certificate of service of motion for modification filed by U.S.	
8--1-68	Motion for Interim Order filed by defendants, Board of School Commissioners, praying that the School Board be allowed to operate insofar as the method of student assignment is concerned, on the same basis as it operated last year, or in the alternative, for an order permitting the defendant to prepare for and to operate the school system on the basis of the desegregation plans submitted to the court with its motion of June 12, 1968.	
8-1-68	Motion DENIED by Daniel H. Thomas, Judge, (notices mailed 8-7-68)	
8--2-68	ORDER ENTERED in response to motion of plaintiff-intervenor United States for modification, MODIFYING and AMENDING decree of 7-29-68 in certain respects. (Minute Entry No. 24,101)	
8--2-68	Copy of M/E 24,101 mailed to attorneys Jones, Crawford, Philips, Dunbaugh, Jansen and Pelham.	
8--9-68	Petition for modification of Decree of July 29, 1968, under Section II, pertaining to attendance zones, filed by defendants.	
8-13-68	Motion to set aside order of July 25, 1968 disposing of exhibits, filed by U. S.,	
8-16-68	Faculty Progress Report, filed by the defendants,	
8-15-68	Order entered modifying Court's decree of July 29, 1968, Minute Entry No.24,181,	
8-19-68	Copies mailed to Jones, Crawford, Philips, Dunbaugh, Jansen, Pelham and Kennamer,	
8-22-68	Motion in support of Plaintiff-Intervenor's motion to set aside the order of July 25, 1968, disposing of exhibits filed, by plaintiff,	

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DATE	PROCEEDINGS	D Jud
9--6-68	Motion to set aside order of July 25, 1968 disposing of exhibits filed on 8-13-68 by U.S., and Motion in support of Plaintiff-Intervenor motion to set aside order filed on 8-22-68 by plaintiff GRANTED as to each motion, notice to attorneys of record.	
9-12-68	Petition for Modification of Court's Decree filed by the defendants	
9-13-68	Order entered correcting and modifying initial paragraph of Sec.III of Court's decree of July 29, 1968, Min. Entry No.24,282,	
9-16-68	Copies of Min. Entry No. 24,282 mailed to attorneys Jones, Crawford, Philips, Dunbaugh, Jansen, Pelham and Kennamer,	
9-17-68	Faculty Progress Report filed on Sep. 17, 1968, by the Defendant, Board of School Commissioners of Mobile County, with Certificate of Service.	
9-27-68	Notice of Appeal filed by the Plaintiffs, with Certificate of Service	
9-30-68	Copy of Notice of Appeal mailed to Messrs. Abram L. Philips; Pierre Pelham; Ralph Kennamer; Messrs. Frank Dunbaugh & Walter Gorman; and Vernol R. Jansen, Jr.	
10-1-68	Notice of Appeal filed by the United States, Plaintiff-Intervenor, Without Certificate of Service	
10-9-68	Copy of Notice of Appeal filed by the United States on October 1, 1968, mailed to Miss Frankie L. Fields; Mr. Vernon Z. Crawford; Messrs. Charles H. Jones Jr., Michael Davidson, and Jack Greenberg; Mr. Abram L. Philips; Mr. Pierre Pelham; Mr. Ralph Kennamer; and Mr. Walter Gorman.	
10-10-68	Notice of Appeal filed by the Defendants, Board of School Commissioners of Mobile County, Et Al, With Certificate of Service	
10-11-68 (*)	Notice of Appeal filed by the Defendant-Intervenors, Twila Frazier, et al, Without Certificate of Service	
10-15-68	Copy of Notice of Appeal filed by the Defendants, Board of School Commissioners of Mobile County, et al, and copy of Notice of Appeal filed by the Defendants-Intervenors, Twila Frazier, et al, mailed on 15 Oct. 1968 to Messrs. Stephen J. Pollak; Frank M. Dunbaugh; Vernol R. Jansen Jr.; Vernon Z. Crawfor d; Charles H. Jones Jr., Michael Davidson, and Jack Greenberg; Ralph Kennamer; and Walter Gorman; and Miss Frankie L. Fields.	
10-15-68	Copy of Notice of Appeal filed by the Defendants, Board of School Commissioners of Mobile County, et al, mailed on 15 Oct. 1968 to Pierre Pelham	
10-15-68	Copy of Notice of Appeal filed by the Defendant-Intervenors, Twila Frazier, et al, mailed to Abram L. Philips Jr. on 15 Oct. 1968	
10-18-68 (*)	Designation by defendant of Record on Appeal and Motion to limit plaintiff-intervenors designation, filed by defendant	
10-14-68	Designation by the Appellant, United States of America, of Record of Appeal and Request for Immediate Certification and Transmittal	
10-21-68	Desigaation by the Appellants, Birdie Mae Davis, et al, of Record on Appeal and Request for Immediate Certification and Transmittal	
10-25-68	Report to the Court filed by defendants,	
11--1-68	Report to the Courtfiled on Nov. 1, 1968, by the Defendant, with Certificate of Service	
11--7-68	Order by the Court that designation of record on appeal shall consist of proceedings which have transpired since most recent decree of Court of Appeals entered on 12 March 1968,Min.Entry No. 24,515	

(SEE OTHERSIDE)

DATE	PROCEEDINGS	Date Judgm
	~~and Exhibits~~	
11--8-68	Transcript of Record/mailed to the U.S. Court of Appeals, Fifth Circuit, ~~and Exhibits~~ on 8 Nov. 1968	
11-8-68	Copies of Minute Entry No. 24,515 mailed to attorneys of record,	
12-4-68	Reporter's transcript of Hearing on Motion on Oct. 28, 1968, filed	
12-6-68	Motion to Substitute parties, filed United States,	
	Application for an Order to Show Cause, filed by United States,	
12-4-68	Report to the Court filed on Dec. 4, 1968, by the Defendants in compliance with Para. VI (b)of Court's Order of Aug. 2, 1968, modifying its decree of July 29, 1968, with Certificate of Service.	
12-11-68	Motion to Strike and/or Dismiss Application for Order to Show Cause, filed by the defendant with Memorandum in support of Motion to Strike,	
12-19-68	Report to the Court filed by defendants, in response to para. V(a) and (b) of the Court's Order of Aug. 2, 1968,	
12-19-68	Court Reporter's Transcript of the Testimony of the Hearing held on July 17, 18, 19, 22, 23, 24, 1968	
12-20-68	Order of the US District Court for the Fifth Circuit DENYING the Appellees' Motion to Dismiss and ordering that the Motions of Appellants to require transmission of the supplemental record is GRANTED	
12-26-68	Supplemental Record of Appeal mailed to the U.S. Court of Appeals of the Court Reporter's Transcript of the Testimony offered on July 17, 18, 19, 22, 23, and 24, 1968 numbered from Pages 1692 to 2651, Incl., ~~and~~ and Hearing on Motion held on October 28, 1968, as reported by the Court Reporter and numbered from Pages 2652 to 2661, Incl.	
12-27-68	Record on Appeal as per order of the Fifth Circuit received in this office on Dec. 20, 1968, consisting of four volumes mailed to the U.S. Court of Appeals	
12-20-68	ORDER Substituting Parties, Sidney C. Phillips and Homer L. Sessions and replaced Jack C. Gallalee and Kenneth Reed as members of the Board of School Commissioners of Mobile Co., Ala. See M/E 24,742	
12-27-68	Copy of M/E 24,742 mailed to each Attorney,	
12-20-68	Order entered GRANTING defendant's application for new construction in the Howard Elementary School and DENYING the application for new construction at the Toulminville School, (M/E No. 24,750).	
12-27-68	Copies mailed to attorneys,	
1-2-69	Report to the Court on reports required by Courts order of Aug. 2, 1968 to be filed on Dec. 16, 1968, filed by Defendants,	
1--3-69	Report to the Court filed on Jan. 3, 1969, by the Defendants, with Certificate of Service	
1-9-69	Motion for Rehearing or Reconsideration, filed by defendants,	

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DATE	PROCEEDINGS
1-28-69	Notice of Appeal filed on Jan. 28, 1969, by the United States, Plaintiff-Intervenor, the appeal being from that part of Court's order approving construction at the Howard Elementary School.
1-28-69	Motion filed Jan. 28, 1969, by the United States, plaintiff-intervenor, for Suspension of Court's Order of Dec. 20,1968, Granting approval of the Construction Plans for the new Howard Elementary School Pending Appeal, with Certificate of Service
1-28-69	Order by the Court dated Jan. 28, 1969, on Motion filed by the United States for Suspension of Court's Order Granting Approval of the Construction Plans for the new Howard Elementary School, Min. Entry No. 25010. Copy of M.E. 25010 mailed on Feb. 20, 1969, to Messrs. Jack Greenberg, Charles H. Jones, Jr., Vernon Z. Crawford, Abram L. Philips Jr., Frank M. Dunbaugh, Walter Gorman, Vernol R. Jansen, Jr., Ralph Kennamer, and Pierre Pelham.
1-29-69	Notice filed Jan. 29, 1969, of Deposition on oral examination of Harry Atkinson, filed by the United States, Plaintiff-Intervenor, with Certificate of Service.
1-31-69	Motion filed Jan. 31, 1969, by the Defendants for Order for Protection of Party, with Certificate of Service.
1-31-69	Order of the Court GRANTING the Motion filed Jan. 31, 1969, by the Defendants for Order for Protection of Party and postponing the taking of the Deposition to a later date.
2--4-69	Notice filed Feb. 4, 1969, of Deposition on oral examination of Dr. Cranford Burns, James A. McPherson, Bobby Ray Clardy, Harry Atkinson Hammer, and Jesse Jordan, with Certificate of Service, Filed by the United States, Plaintiff-Intervenor
2--4-69	Motion filed Feb. 4, 1969, by the Defendant for Order for Protection of Party, with Certificate of Service
2--4-69	Motion filed Feb. 4, 1969, by the Defendant for Order for Protection of Party, with Certificate of Service
2--4-69	Designation of Record on Appeal and Request for Immediate Certification and Transmittal, filed on Feb. 4, 1969, by the United States, Plaintiff-Intervenor.
2-11-69	Motion filed Feb. 11, 1969, by the United States of America, Plaintiff-Intervenor, for Production of Records Under Rule 34, F.R.C.P.,with Certificate of Service
2-11-69	Order of the Court entered on Feb. 11, 1969, on Motion for Production of Documents Under Rule 34, GRANTING the motion, Minute Entry No. 25078. Copy of M.E. 25078 mailed on Feb. 20, 1969, to Messrs. Jack Greenberg, Charles H.Jones Jr., Vernon Z. Crawford, Abram L. Philips Jr., Frank M. Dunbaugh, Walter Gorman, Vernol R. Jansen Jr., Ralph Kennamer, and Pierre Pelham
2-17-69	Notice of Appeal filed Feb. 17, 1969, by the Plaintiffs, with Certificate of Service
2-20-69	Deposition of Harry Walter Atkinson filed on Feb. 20, 1969. (ON TOP OF
3--7-69	Motion to quash or limit subpoena duces tecum served on William B. Crane filed by defendants,
3--7-69	Information for the Court filed by defendants, (this document placed in red folder)

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DATE	PROCEEDINGS	Date C Judgme
2-24-69	Transcript of Testimony taken on May 7, 1968, filed by the Court Reporter on 24 Feb. 1969	
3--7-69	Application for Order to Show Cause, filed by United States on Dec. 6, 1968, taken under Submission; Motion to Strike and/or Dismiss Application for Order to Show Cause filed by Defendants on Dec. 11, 1968, taken under Submission; Motion filed by Defendants on 9 Jan. 1969, for rehearing of arguments on Motion of Defendants seeking approval of Proposed Construction of Toulminville School, taken under Submission; and Motion to Quash or Limit subpoena duces tecum served on William B. Crane is GRANTED, Minute Entry No. 25170. Copy of M.E. 25170 mailed on Mar. 17, 1969, to Messrs. Jack Greenberg, Charles H. Jones, Jr., Vernon Crawford, Abram L. Philips Jr., Frank Dunbaugh, Walter Gorman, Vernol R. Janesn Jr., Ralph Kennamer, Pierre Pelham, and Miss Frankie Fields	
3-12-69	Motion filed Mar. 12, 1969, by the United States, Plaintiff-Intervenor, to Supplement the Record of the March 7, 1969, Hearing, with Certificate of Service	
3-14-69	Order of the Court that the Defendant School Board's Motion for Reconsideration Court's Order of Dec. 20, 1968, in which the Court DENIED School Board's Application for New Construction for the Toulminville High School is GRANTED and COURT further ORDERED that Application for New Construction of the Toulminville High School is GRANTED, Min. Entry No. 25217. Copy of M.E. 25217 mailed on Mar. 17, 1969, to Messrs. Jack Greenberg, Charles H. Jones Jr., Vernon Z. Crawford, Abram L. Philips Jr., Frank Dunbaugh, Walter Gorman, Vernol R. Jansen Jr., Ralph Kennamer, Pierre Pelham, and Miss Frankie Fields	
3-27-69	Affidavit of J. Howe Hadley	
3-28-69	TRANSCRIPT OF HEARING HELD ON MAY 7, 1968; DOCUMENTS FILED ON FEB. 20, 1968, MARCH 4, 1968, and APR. 22, 1968, IN REFERENCE TO THE BUILDING OF TOULMINVILLE HIGH SCHOOL AND HOARD ELEMENTARY SCHOOL; AND DOCUMENTS FILED ON DEC. 6, 1968, AND THEREAFTER, INCLUDING A DOCUMENT FILED ON MAR. 27, 1969, MAILED TO U.S. COURT OF APPEALS, FIFTH CIRCUIT, NEW ORLEANS, LA. (MEMO: NUMBER OF FINAL PAGE OF THIS TRANSCRIPT,INCLUDING CLERK'S CERTIFICATE IS 3052).	
3-27-69	Order of the Court on the Show Cause requested by the Plaintiff-Intervenor, United States of America,as to why the School Board shall not be held in civil contempt; Defendant's Motion to Strike or alternatively to DISMISS the application for a show cause order is DENIED; and 30 days from receipt of this order School Board shall file reports required by Sections IV D 5 and IV G of Court's Decree of May 13, 1968, Min. Entry No. 25274. On Mar. 29, 1969, copy of this order mailed to Vernon Z. Crawford and Miss Frankie L. Fields; Charles H. Jones Jr., Michael Davidson, and Jack Greenberg; Vernol R. Jansen Jr.; Stephen J. Pollak; Frank M. Dunbaugh and Walter Gorman; Abram L. Philips Jr. and James D. Brooks; Pierre Pelham; and Ralph Kennamer.	

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DATE	PROCEEDINGS	Date Judgm
5-8-69	Amended Petition of the Board of School Commissioners of Mobile County, Ala., for Temporary and Permanent Injunctive Relief filed May 8, 1969, against R. L. Dawson and Percy L. Ely	
5-12-69	Motion Filed May 12, 1969, by the Respondents, American Friends Service Committee, Bill Rosser, and David Jacobs, to Dismiss Petition	
5-12-69	Motion Filed May 12, 1969, by the Respondents, American Friends Service Committee, David L. Jacobs, and Bill Rosser To Set Aside Show	
5-12-69	Hearing Set for this Date Continued to May 13, 1969, at 1:00 P.M. at the request of the Attorneys for the Plaintiffs and Attorneys for Noble Beasley and Neighborhood Organized Workers	
5-13-69	Motion to Dismiss Cross-Complaint filed by Respondents, Noble Beasley and Neighborhood Organized Workers, Affidavit filed by Noble C. Beasley in Support of Motion to Dismiss Cross-Complaint	
5-13-69	Motion filed on May 13, 1969, by the Plaintiffs to Dismiss Petition	
5-13-69	Affidavits filed in open court on May 13, 1969, by the Plaintiff-Intervenor, United States of America	
5-13-69	Supplement to Motion to Dismiss and Presentation of Affirmative Defense Filed in Open Court on May 13, 1969, by Respondents, American Friends Service Committee, David L. Jacobs Jr., and William Rosser	
5-13-69	Affidavits filed in open court on May 13, 1969, by the American Friends Service Committee Inc., et al	
5-13-69	Affidavits filed in open court on May 13, 1969, by the Defendants, Board of School Commissioners, e t al	
5-14-69	Order of Court (Min. Entry No. 25434) relative to service of Petition to Interplead Additional Defendants filed on May 8, 1969, returned, executed,	
5-14-69	Renewal of following motions filed by respondents American Friends Service Committee, et al.: 1. Motion to dismiss petition; 2. Supplement to motion to dismiss and presentation of affirmative defense; 3. Motion to set aside show cause order.	
5-14-69	Brief in support of "motion to dismiss petition', of "supplement to motion to dismiss and presentation of affirmative defense", and of "motion to set aside show cause order", filed by American Friends Service Committee and Bill Rosser and David L. Jacobs,	
5-14-69	Memorandum filed May 14, 1969, by the United States of America on the May 8, 1969, Petition of the Board of School Commissioners, with Certificate of Service	
5-14-69	Counter-Affidavits filed on May 14, 1969, by Noble C. Beasley and Neighborhood Organized Workers, with Certificate of Service.	
5-14-69	Affidavit of James A. McPherson filed by the Board of School Commissioners of Mobile County, et al	
5-14-69	Affidavit of Sam H. Shout filed by the Board of School Commissioners of Mobile County, et al	
5-14-69	Objection and Motion to Strike filed on May 14, 1969, by Respondents, American Friends Service Committee, et al	
5-14-69	Transcript of Hearing held on May 12 and 13, 1969, filed by the Court Reporter	

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS
3-19-69	Notice of Appeal filed Mar. 19, 1969, by the United States, Plaintiff-Intervenor, appealing from the order and opinion granting Defendant's Application for New Construction of the Toulminville High School
3-24-69	Notice of Appeal filed Mar. 24, 1969, by the Plaintiffs, appealing from the order granting Defendant's Application for construction of school at Toulminville
4--7-69	Order of the Court permanently enjoining the DEFENDANTS from discriminating on the basis of race or clor in the operation of the school system; that all rural schools shall continue to operate under the freedom of choice desegregation plan for the school year 1969-70; setting the Choice Period from Apr. 14, 1969, and ending 12 May 1969; approval of area attendance zones as proposed by the School Board;etc., Minute Entry No. 25342. Copy of M.E. 25342 mailed on 9 April 1969 to Messrs. Jack Greenberg, Charles H. Jones, and Michael Davidson; Vernon Z.Crawford and Miss Frankie Fields; Vernol R. Jansen Jr.; Frank M. Dunbaugh and Walter Gorman; Abram L. Philips Jr. and James D. Brooks; Ralph Kennamer; Pierre Pelham; and Stephen J. Pollak
4-23-69	**Motion filed by plaintiff to require defendant Board of School Commissioners to submit within 30 days a plan of faculty desegregation,**
4-24-69	Order of the Court granting Additional Time for Defendant,School Board, to preare and file reports as set forth in Court's Order of Mar. 27,1969, and School Board given to May 9, 1969, to file report with the Court, Min. Entry No. 25394. Copy of M.E 25394 mailed on 4-25-69 to Messrs. Jack Greenberg, Michael Davidson, Vernon Z. Crawford, Miss Frankie Fields, V.R. Jansen, Jr., Frank M. Dunbaugh, Walter Gorman, A. L. Philips Jr., James D. Brooks, Ralph Kennamer, Pierre Pelham, and Stephen J. Pollak.
5--2-69	**Motion to require defendant to submit plan for faculty desegregation filed by plaintiff on 4-23-69 ARGUED, and taken under SUBMISSION.**
5--7-69	**Order of the Fifth Circuit Court of Appeals received May 7, 1969, GRANTING Appellant's Motion for Reconsideration of Fifth Circuit Court's Order of March 20, 1969, and Appellants' motions for Injunction pending appeal are GRANTED.**
5-5-69	Motion to require defendants to submit a plan for faculty desegregation filed by the United States of America, Plaintiff-Intervenor
5-8-69	**Petition of the Board of School Commissioners of Mobile County, Ala., for Temporary and Permanent Injunctive Relief filed May 8, 1969, against American Friends Service Committee, Neighborhood Organized Workers (NOW), Bill Rosser, David L. Jacobs, and Noble Beasley**
5-8-69	**Order of the Court setting the Petition for Temporary and Permanent Injunction for May 12, 1969, at 10:00 A.M., Minute Entry No. 25,434. Copy of M.E. No. 25,434 mailed on May 8, 1969, to Messrs. Jack Greenberg and Michael Davidson; Vernon Z. Crawford and Frankie Fields; V. R. Jansen Jr.; Frank M. Dunbaugh and Walter Gorman; Abram L. Philips Jr. and James D. Brooks; and Ralph Kennamer; and Pierre Pelham; and Stephen J. Pollak.**

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	D Jud
5-14-69	Notice of Motion and Motion for leave to intervene as plaintiff filed by Alabama State Teachers Association, Inc., with proposed complaint attached,	
5-16-69	Order entered adding R. L. Dawson and Percy L. Ely as parties defendant and directing that they appear and show cause why relief should not be granted by answering said petition for injunctive relief by affidavit only, to be filed with the Clerk of this Court on or before Wednesday, May 21, 1969 at 12 o'clock noon, and that the U.S. Marshal serve a copy of the petition and amendment to interplead additional defendants filed 5-8-69 with a copy of this order on said defendants, M/E No. 25478.	
5-16-69	Certified copy of order, together with copy of petition and amendment to interplead additional defendants filed on 5-8-69 given to U.S. Marshal for service on each defendant,	
5-16-69	Motion filed May 16, 1969, by Board of School Commissioners of Mobile County to Strike certain affidavits filed by U.S. Department of Justice, with Certificate of Service	
5-16-69	REPORT TO THE COURT FILED BY THE DEFENDANT, BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, with Certificate of Service	
5-16-69	Order by the Court directing that R.L.Dawson and Percy L.Ely be made party Defendants; directing that Dawson & Ely to appear and show cause why such relief should not be granted; and directing that the U.S. Marshal serve R. L. Dawson and Percy L. Ely, Min. Entry No. 25478. Copy of M.E. 25478 mailed on May 16, 1969, to Messrs. Vernon Z. Crawford, Johathan Shapiro, Vernol R. Jansen Jr., Frank M. Dunbaugh and Walter Gorman, Abram L. Philips Jr., George W. Dean, and Reber F. Boult Jr.	
5-16-69	Preliminary Injunction issued by the Court against Bill Rosser, David L. Jacobs, American Friends Service Committee and other persons in active concert and participation with these parties defendant, etc., Min. Entry No. 25480. On May 20, 1949, copy of M.E. 25480 mailed to Messrs. Jonathan Shapiro, Vernon Z. Crawford, Vernol R. Jansen Jr., Frank M. Dunbaugh, Walter Gorman, Abraml L. Philips Jr., James D. Brooks, Ralph Kennamer, Pierre Pelham, Stephen J. Pollak, George W Dean, and Reber F. Boult Jr., and Miss Frankie Fields	
5-16-69	Writ issued to the U.S. Marshal with copy of M.E 25480 attached for service on Bill Rosser, David L. Jacobs, and American Friends Service Committee	
5-19-69	Notice of Appeal filed on May 19, 1969, by American Friends Service Committee, David L. Jacobs, and Bill Rosser. Copy of Notice of Appeal mailed on May 20, 1969, to Miss Frankie Fields, and Messrs. Jonathan Shapiro, Vernon Z. Crawford, Vernol R. Jansen, Jr., F Frank M. Dunbaugh, Walter Gorman, Abram L. Philips Jr., James D. Brooks, Ralph Kennamer, Pierre Pelham, and Stephen J. Pollak.	
5-19-69	Motion filed May 19, 1969, by American Friends Service Committee, David L. Jacobs, and Bill Rosser for Stay, with Certificate of Service.	

(SEE NEXT PAGE) (SEE NEXT PAGE)

DATE	PROCEEDINGS	Date Ord Judgment
5-19-69	Motion for Stay filed on May 19, 1969, by American Friends Service Committee, et al, is DENIED, Minute Entry No.25487. Copy of M.E. 25487 mailed on May 20, 1969, to Miss Frankie Fields, and Messrs. Jonathan Shapiro, Vernon Z.Crawford, Vernol R. Jansen Jr., Frank M. Dunbaugh and Walter Gorman, Abram L. Philips Jr., James D. Brooks, Ralph Kennamer, Pierre Pelham, Stephen J. Pollak, George W. Dean, Charles Morgan Jr., and Reber F. Boult, Jr.	
5-19-69	Cost Bond on Appeal in sum of $250.00 filed on May 19, 1969, by American Friends Service Committee, et al	
5-21-69	Writ re Preliminary Injunction returned, executed by USM as to BILL ROSSER, DAVID L. JACOBS & THE AMERICAN FRIENDS COMMITTEE,	
5 -20-69	Answer of Percy L. Ely to Petition for Injunctive Relief filed with affidavit,	
5 -21-69	Motion and Presentation of Defense and affidavit of Rev. R. L. Dawson filed,	
(5-19-69)	Writ RE Petition for injunctive relief returned by USM executed as to R. L. DAWSON & PERCY L. ELY,	
5-26-69	Amendment and supplement to brief in support of Motion and Presentation of defense filed by respondents,	
6--4-69	JUDGMENT of the U.S. Court of Appeals for the Fifth Circuit REVERSING the order of the U.S. District Court and cases are REMANDED to the District Court for further proceedings in accordance with the opinion of the U.S. Court of Appeals. Copy of opinion attached.	
6--6-69	Motion filed May 5, 1969, by United States, Plaintiff-Intervenor, to Require Submission of Faculty Desegregation Plan is SUBMITTED WITHOUT ARGUMENT	
6--6-69	Motion filed May 16,1969, by Board of School Commissioners of Mobile County to STRIKE CERTAIN AFFIDAVITS is SUBMITTED WITHOUT ARGUMENT	
5-23-69	Order of the U S. Court of Appeals for the Fifth Circuit GRANTING Appellants' Motion for Stay of Injunction Pending Appeal	
6-10-69	Record on appeal sent to U.S. Court of Appeals, Fifth Circuit, beginning with 8th day of May, 1969 docket entry to May 23, 1969, (page 3053 to 3353) a total of 300 pages. Copies were sent to the attorneys of the above entries that were sent to fifth circuit along with page numbers,	
6-16-69	Verified Bill of Costs in sum of $1372.00 as costs incurred in U.S. Court of Appeals filed by plaintiffs with certificate attached,	
6-17-69	Verified Bill of Costs in sum of $1360.20 as costs incurred in U.S. Court of Appeals filed by plaintiff-intervenor with certificate attached,	
6-27-69	Motion for leave to intervene as plaintiff filed by Ala. State Teachers Association Inc. on 5/14/69 argued and taken under submission,	
6-23-69	Order of the Fifth Circuit Court of Appeals on the Petition For Rehearing in which the Fifth Circuit DENIED the Petition for Rehearing and Motion of Appelles for a Stay of Execution and Enforcement of Judgment is DENIED	

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Judge
7/1/69	Notice of taking of deposition of DR. JOSEPH HALL and MR. J. J. JORDAN filed by defendant, subpoenas issued,	
7-2-69	Judgment of the U.S. Court of Appeals for the Fifth Circuit ordering that "appellees' motion for stay of execution and enforcement of the judgment and mandate entered in the above causes pending the petition for writ of certiorari to be filed in the Supreme Court of the United States, is hereby DENIED."	
7-10-69	DESEGREGATION PLAN FOR THE MOBILE COUNTY PUBLIC SCHOOLS filed by the Division of Equal Educational Opportunities, Office of Education of The Department of Health, Education and Welfare for the operation of schools in Mobile School District, pursuant to Mandate of U.S.Court of Appeals of 6-3-69, with accompanying maps.	
7-10-69	Copies of plan furnished to Mr. Abe Philips, Mr. Vernon Crawford, Mr. Vernol R. Jansen, Jr., U. S. Attorney, and Mr. Pierre Pelham,	
7-16-69	Notice of taking depositions of William B. Crane and James A. McPherson on July 23, 1969 filed by plaintiff-intervenor,	
7-17-69	Motion filed by plaintiffs for court order to immediately implement the plan of desegregation formulated by HEW filed on July 10, 1969, with certain modifications,	
7-18-69	Motion to strike and expunge from the Record the Report and Proposed Plan of Desegregation filed by HEW on July 10, 1969, filed by defendants Board of School Commissioners,	
7-21-69	Objections and Suggested Amendments to proposed plan of desegregation of HEW filed by defendant Board of School Commissioners,	
7-22-69	Motion to continue depositions of McPherson and Crane, presently set for July 23, 1969, filed by defendants.	
7-22-69	Motion in opposition to defendants' alternative desegregation plans and for an Order requiring defendants to adopt and implement the desegregation plan proposed by the HEW, filed by United States, plaintiff-intervenor,	
7-23-69	Depositions of DR. JOE HALL and JESSE J. JORDAN filed by defendant Mobile County School Board,	
7-25-69	Motion in opposition to defendants' alternative desegregation plans filed by plaintiffs, moving for an order dismissing or denying the Suggested Amendments and Objections as filed by Board of School Commissioners on July 21, 1969.	
7-29-69	Application for intervention as parties defendant filed by MOBILE COUNT COUNCIL OF PARENT-TEACHER ASSOCIATIONS, et al.	
7-22-69	Motion that depositions not be taken, filed by the defendants,	
7-22-69	Motion filed July 22, 1969, by Defendants, Board of School Commissioners, to Continue Depositions of James A. McPherson and William B. Crane is granted.	
7-22-69	Motion filed July 22, 1969, by Defendants, Board of School Commissioners, that Depositions of William B. Crane and James A McPherson NOT BE TAKEN is GRANTED.	
7-29-69	For assistance and information of the court, filed by defendant, (CONTINUED ON NEXT PAGE)	

DATE	PROCEEDINGS	Date Order Judgment N
8--1-69	Motion filed July 18, 1969, by Defendants, Board of School Commissioners, to Strike and Expunge from the record the report and proposed plan of desegregation submitted by the Office of Education of the Department of Health, Education and Welfare is DENIED.	
8--1-69	Motion filed July 17, 1969, by Plaintiffs, Birdie Mae Davis, et al, to Accept H.E.W. Plan of Desegregation with Modifications is DENIED.	
8--1-69	Motion filed July 21, 1969, by Defendants, Board of School Commissioners, objecting to the proposed plan of desegregation filed by the Office of Education of the Department of Health, Education and Welfare and suggesting amendments to the plan of desegregation filed by the Office of Education of the Department of Health, Education and Welfare is DENIED.	
8--1-69	Motion filed July 22, 1969, by the United States in Opposition to Defendants' Alternative Desegregation Plans and for an Order requiring Defendants to Adopt and Implement the Desegregation Plan Proposed by the Office of Education is DENIED.	
8--1-69	Motion filed July 25, 1969, by Plaintiffs, Birdie Mae Davis, et al, in Opposition to Defendants' Alternative Desegregation Plans is DENIED.	
8--1-69	Notice of Motion, and Motion for leave to intervene as plaintiff filed by the NATIONAL EDUCATION ASSOCIATION, INC., with proposed Complaint in Intervention attached,	
8--1-69	Order of the Court and DECREE directing plan of desegregation, Min. Entry No. 25826. Copy of Min. Entry 25826 mailed on Aug. 1, 1969 to Miss Frankie Fields; Messrs. Jack Greenberg, Jonathan Shapiro, and Michael Davidson; Mr. Vernon Z. Crawford; Mr. C. S. White Spunner Jr., the United States Attorney; Messrs. Frank M. Dunbaugh and Walter Gorman; Messrs. Abram L. Philips Jr. and James D. Brooks; Mr. Ralph Kennamer; Mr. Pierre Pelham; Mr.Stephen J. Pollak; Mr. George W. Dean; Messrs. Charles Morgan Jr. and Reber F. Boult Jr.; Mr. Solomon S. Seay Jr.; and Mr. Samuel L. Stockman.	
8--6-69	Notice of Appeal Filed on Aug. 6, 1969, by the Plaintiffs, with Certificate of Service	
8--6-69	Designations of Record on Appeal and Request for Immediate Certification and Transmittal filed on Aug. 6, 1969, by the Plaintiffs, with Certificate of Service.	
8-11-69	Record on Appeal mailed on Aug. 11, 1969, to the U.S. Court of Appeals, Fifth Circuit, New Orleans, La. (MEMO: NUMBER OF FINAL PAGE OF THIS TRANSCRIPT, INCLUDING CLERK'S CERTIFICATE IS 3746).	
9-17-69	Order of the Court directing that Exhibits offered in 1968 and 1967 be returned to party offering said exhibits, Min. Entry No. 25959. Copy of M.E. 25959 mailed on Sep. 19, 1969, to Messrs.Jack Greenberg, Michael Davidson, and Johathan Shapiro; Vernon Z.Crawford and Miss Frankie Fields; Messrs. Charles S. White Spunner Jr., Frank M. Dunbaugh, Walter Gorman, Abram L. Philips Jr. and James D. Brooks, Ralph Kennamer, Pierre Pelham, Stephen J. Pollak, George W. Dean, Charles Morgan Jr., Reber F. Boult Jr., and Solomon S. Seay, Jr., and Samuel L. Stockman.	

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	J
10-6-69	Application for an Order to Show Cause filed by plaintiff, with certificate of service attached, and proposed order,	
10-13-69	Report to the Court filed on 13 Oct. 1969 by the Defendants, Board of School Commissioners of Mobile Coujnty, et al, without Certificate of Service. On 13 Oct. 1969 the Clerk forwarded to All Attorneys in this case a copy of this Report filed 10-13-69	
10-20-69	Motion to Dismiss Application for Order to Show Cause filed by Defendants, The Board of School Commissioners of Mobile County, et al,	
10-27-69	Memorandum in opposition to School Board's Motion to Dismiss Application for an order to show cause and Motion for Attorneys Fees filed by Plaintiffs,	
11-7-69	Report to the court for the information of the court filed by Board of School Commissioners of Mobile County,	
11-10-69	Application for an order to show cause filed by Plaintiff-intervenor, The United States of America,	
11-17-69	Request for execution for amount of court costs on appeal due in sum of $1,372.00 filed by attorney for plaintiffs,	
	Writ of execution issued,	
11-20-69	Report to the Court of November 20, 1969 filed by Board of School Commissioners of Mobile County, Alabama,	
11-20-69	Interrogatories directed to Mr. ABRAM PHILIPS, attorney for defendants filed by plaintiffs,	
11-20-69	Motion for clarification of the Court's Order filed by defendants BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, ET AL,	
11-26-69	REPORT TO THE COURT dated November 26, 1969 filed by defendants, BOARD OF SCHOOL COMMISSIONERS,	
11-26-69	Writ of Fieri Facias returned, NOT EXECUTED, Writ of Garnishment to be issued,	
12--1-69	Suggested Desegregation plan for all metropolitan schools located east of I-65, for implementation for the 1970-71 school term, filed by defendant School Board, pursuant to Court's decree of August 1, 1969, with Maps 1, 2 and 3 attached.	
12-4-69	Order entered by Court allowing defendant School Board to substitute corrected map, designated Map # 1-A, for Map # 1 submitted with suggested desegregation plan filed 12-1-69, (Minute Entry No. 26,285).	
	Certified copy of judgment of U.S.Court of Appeals, Fifth Circuit, received, AFFIRMING order of District Court appealed from, with directions to desegregate the eastern part of the metropolitan area of the Mobile County School System and to otherwise create a unitary system in compliance with other provisions and conditions of order of court then entered, and taxing costs on appeal in appeals court against appellee, School Board.	
	Copy of Court's opinion received from Fifth Circuit and filed,	
12-5-69	Copy of School Board's desegregation plan and copy of order substituting map mailed to following attorneys: Davidson, Crawford, Fields, Gorman, White-Spunner and Pierre Pelham, and Abe Philips.	
12-30-69	Application for an Order to Show Cause, filed October 6, 1969 by plaintiffs Oct. 6, 1969 DENIED,	
	Motion to Dismiss Application for Order to Show Cause, filed by the defendants, Board of School Commissioners of Mobile County DENIED,	

DATE	PROCEEDINGS	Date Order Judgment No
12-30-69	Order entered that the motion for attorney's fees filed by the Plaintiff is DENIED, see M/E Number 26,410,	
1-2-70	Copy of Minute Entry Number 26,410 sent to each attorney,	
1-2-70	Affidavit for issuance of Garnishment against First Nat'l Bank of Mobile, Merchants National Bank of Mobile and American National Bank of Mobile on judgment for costs filed by plaintiffs,	
1-2-70	Writs of Garnishment issued against EACH of the following named banks, and notice issued to defendant in EACH instance: FIRST NATIONAL BANK OF MOBILE, MERCHANTS NATIONAL BANK OF MOBILE and AMERICAN NATIONAL BANK OF MOBILE,	
1--5-70	Writs of Garnishment issued on 1/2/70 and notices to defendant of issuance returned executed by U.S. Marshal,	
1--5-70	Motion filed by plaintiffs for order of court to limit Writs of Garnishments issued on 1/2/70 to sum of $1,372.00 being the amount by judgment of the U. S. Court of Appeals, Fifth Circuit,	
1--2-70	Motion to require service of desegregation plan filed by plaintiffs,	
1--6-70	Motion filed by defendants for order of court limiting garnishments to sum of $1,372.00 to be held by each bank GRANTED. Notices mailed to banks, and to Abe Philips, Attorney for defendants.	
1-7-70	Notice of granting of defendants' motion mailed to attorneys Davidson, Crawford, Pelham and White-Spunner,	
1-6-70	ANSWER to garnishment served on the bank , The First Nat'l Bnk of Mobile on January 5, 1970 filed,	
1-7-70	Copy of Answer sent to Michael Davidson,	
1-7-70	ANSWER to garnishment served on the American National Bank & Trust Company filed,	
1-8-70	Copy of Answer sent to Michael Davidson,	
1-13-70	Copy of bill of costs in amount of $25.00 taxed against appellee School Board by Circuit Court of Appeals received and filed,	
1-15-70	A Desegregation Plan for the Mobile County School System, filed by the Division of Equal Educational Opportunities, U. S. Office of Education, Atlanta, Georgia,	
1-22-70	Certified copy of Court's Opinion-Order entered by U.S.Court of Appeals forthe Fifth Circuit on January 21, 1970, directing that the order of the Supreme Court entered in the Singleton V. Jackson Municipal Separate School District et al, case, No. 26005, with respect to the deferrel of student desegregation beyond February 1, 1970 is made the judgment of the Court of Appeals, all other provisions of the order of CCA in Singleton to remain in full force and effect, received and filed.	
1-22-70	Order entered GRANTING application for intervention as parties defendant filed on July 29, 1969 by MOBILE COUNTY COUNCIL OF PARENT-TEACHER ASSOCIATIONS, et al. (Minute Entry No. 26,540-A.) Copies mailed to all attorneys of record,	
1-28-70	Order entered ORDERING Board of School Commissioners of Mobile County, to forthwith submit to the Court a revision of plans for desegregation in accord with the mandates of the Supreme Court and the Fifth Circuit Court of Appeals. (Minute Entry No. 26,553).	
.-28-70	7 certified copies of order delivered to U. S. Marshal for service on Abe Philips, Attorney, Dr. Cranford Burns, and each member of School Board.	
.-28-70	Order to School Board returned EXECUTED,	

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Ju.
	Copies of order to school board mailed to attorneys,	
1-26-70	Copy of Dissenting Opinions of Judge James P. Coleman and Judge Charles Clark filed,	
1-30-70	Response to order of court of January 28, 1970, filed by Board of School Commissioners,	
1-31-70	DECREE entered by court pursuant to reversal by Fifth Circuit Court of Appeals as directed by U. S. Supreme Court, ADOPTING area attendance desegregation plan submitted by the school board on December 1, 1969, for those school zones lying East of I-65, with the exceptions as set out in the order, to be adopted and put into effect as of FEBRUARY 1, 1970; (Minute Entry No. 26,573)	
1-31-70	Order entered re-establishing an elementary school on Dauphin Island for children living in the Island at the elementary grade level, and directing order implemented forthwith. (Minute Entry No. 26,574).	
1-31-70	Certified copy of Minute Entry No. 26,573 and 26,574 with set of Maps, Exhibits A, B and C, delivered to U. S. Marshal for service on Board of School Commissioners, C/O its Attorney, Abram L. Philips,	
1-31-70	Copies of each order mailed to attorneys of record,	
2--2-70	Certified copies of orders returned EXECUTED by U. S. Marshal.	
2--4-70	ORDER entered amending order of this court of January 31, 1970 in order to add "the majority to minority transfer policy", providing that a student attending a school in which his race is in the majority to choose to attend another school where space is available, and where his race is in the minority. (Minute Entry No. 26,588).	
2-11-70	NOTICE OF APPEAL filed by plaintiffs from order and judgment of the District Court entered on January 31, 1970.	
2-11-70	Designation of contents of record on appeal filed by plaintiffs-appellants.	
2-12-70	Copy of order of 2-4-70 and copy of notice of appeal mailed to all attorneys of record,	
2-16-70	NOTICE OF APPEAL from order and judgment entered on January 31, 1970 filed by United States of America, plaintiff-intervenor.	
2-18-70	Copy of notice of appeal filed 2-16-70 mailed to all attorneys of record, with copy of "timetable" for school desegregation appeals as set out in Singleton opinion, Part III,	
2-18-70	Petition filed by defendant School Board, asking for immediate consideration, to be allowed to maintain a 12th grade program at Trinity Gardens for remainder of this school year.	
2-19-70	NOTICE OF APPEAL filed by defendants Board of School Commissioners of Mobile County, et al. from order and judgment entered on January 31, 1970, as amended by order entered on February 4, 1970.	
2-24-70	Additional designation of contents of record on appeal filed by defendants,	
2-24-70	Affidavit testimony of James A. McPherson filed by defendant in support of its Response to Order filed on January 30, 1970.	
2-24-70	Report to the Court, filed by defendant, for the information and assistance of the court,	
2-24-70	Report to the Court filed by defendant for the purpose of advising the Court of steps taken towards implementation of its Order of January 31, 1970.	

(REVERSE OF DOCKET SHEET NO. 14)

DATE	PROCEEDINGS	Date Ord. Judgment
2--23-70	Answers to plaintiff's interrogatories filed by Defendants,	
2--25-70	Copies of Notice of Appeal filed by Defendant School Board mailed to all attorneys of record.	
	Certified record on appeal mailed to CCA, New Orleans, La.	
2-27-70	Motion to require service of desegregation plan filed on 1/2/70 by plaintiffs is GRANTED, notice mailed to Attys. Michael Davidson and Abram L. Philips, Jr.,	
3-2-70	Petition filed pertaining to Westlawn and Mertz Schools,	
	Petition filed pertaining to Mertz and Mae Eanes Schools,	
	Petition filed pertaining to Morningside School and Mae Eanes School	
	The above Petitions filed by the Mobile Co. School Board	
3-10-70	Petition for modification of court's order of January 31, 1970 with respect to maintaining a ninth grade at Mae Eanes School, filed by defendant School Board,	
3-10-70 ✓	Motion for leave to amend summons and complaint by adding thereto as party defendants, ALBERT BREWER, Governor of the State of Alabama, and MacDONALD GALLION, Attorney General of the State of Alabama, and to file supplemental complaint attacking legislative act enacted on March 4, 1970, by the State Legislature, known as the "Freedom of Choice Act, filed by plaintiffs,	
3-11-70	Certificate of service of copy of supplemental complaint and plaintiffs' brief as filed on March 10, 1070, filed by plaintiffs.	
3-11-70	Motion filed by plaintiff for an order commanding the garnishee to pay over monies and for an order condemning same,	
3-12-70	ORDER entered by court, AMENDING order of January 31, 1970, as to petitions filed on March 2, 1970 and March 10, 1970 relating to Westlawn, Mertz, Mae Eanes and Morningside, and Trinity Gardens schools for remainder of this school year. (Minute Entry No. 26760). Copies of order mailed to all attorneys of record.mpcox	
3-13-70	Petition filed by plaintiffs for order modifying decree of January 31, 1970 relating to graduating seniors and future status as senior high school of Trinity Gardens, filed by plaintiff,	
3-16-70	Motion for continuance of hearing set for 9:30 A.M. this date, filed by defendant, Mobile County Council PTA,	
3-16-70 ✓	Application for an Order to Show Cause why defendants should not be adjudged in civil contempt of this court for failing and refusing to comply with this court's decree of January 21, 1970, filed by plaintiffs,	
3-16-70	Hearing in open court on motion filed by plaintiffs on March 10,1970 for leave to amend summons and complaint by adding Brewer and Gallion, and to file supplemental complaint, and	
	ORDER entered, DISMISSING petition, and requiring School Board to follow the order of this court of January 31, 1970, as amended, within three (3) days from date, or a fine of $1,000.00 per day assessed for each such day against each member of the Board of School Commissioners. (Minute Entry No. 26,771)	
	Certified copy of order delivered to U. S. Marshal for personal service on Dr. Cranford Burns, Superintendent, and on each member of School Board.	
3-17-70	Copies of order delivered to attorneys Abe Philips, Walter Gorman, Vernon Crawford.	
3-17-70	Copies of M/E 26,771 mailed to attorneys of record, and to Hon. Gordon Madison, Assistant Attorney General of Alabama.	

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DATE	PROCEEDINGS	Dat Judg
3-12-70	Judgment of the U.S. Court of Appeals, Fifth Circuit, VACATING the preliminary injunction issued by the U.S. District Court on May 16, 1969; case remanded to the District Court in accordance with the opinion of this Court.	
3-17-70	NOTICE OF APPEAL filed by Defendant BOARD OF SCHOOL COMMISSIONERS from order dated March 16, 1970.	
3-17-70	Motion for stay of enforcement of order dated March 16, 1970, pending appeal and thereafter until appellate remedies are exhausted, filed by defendant School Board.	
3-18-70	Motion for stay of enforcement of orders of January 31, 1970 and March 16, 1970 pending the filing of an action to test Legislative Act S. 1 passed on March 4, 1970 by Alabama Legislature, filed by defendant School Board.	
	Motion for stay, filed by defendant on March 18, 1970, DENIED.	
3-19-70	Return of Marshal filed, showing service of order of March 16, 1970 on Superintendent and each member of School Board by personal service.	
3-20-70	Certified copy of Order of Circuit Court of Appeals entered on March 19, 1970 DENYING appellants' motion for stay of orders of District Court dated January 31, 1970 and March 16, 1970 received and filed,	
3-23-70	Response to petition of plaintiffs filed on March 13, 1970 requesting that Trinity Gardens School be continued as a school serving grades 7 through 12 filed by defendant School Board.	
3-23-70	Motion to allow modification of Order of Court of January 31, 1970 relative to ninth grade at Prichard Junior High School, Vigor High School and Mobile County Training School, filed by defendant School Board,	
3-23-70	Motion to modify court order of January 31, 1970 relative to Leinkauf Elementary School, Hall Junior High School, Old Shell Road Elementary School, Caldwell Elementary School and Emerson Elementary School, filed by defendant School Board,	
3-23-70	Motion to modify court order of January 31, 1970 relative to Hall School, Craighead School, Williamson High School, Maryvale School, Woodcock Elementary School, Arlington Elementary School, filed by defendant School Board,	
3-26-70	Withdrawal of Notice of Appeal from order dated March 16, 1970 filed by defendant School Board.	
3-27-70	Objection to supplementing the record on appeal by furnishing of certain maps and records and statistical tables by appellant United States Department of Justice filed by defendants,	
3-30-70	Copy of order entered by Fifth Circuit Court of Appeals directing district court to supplement its findings of fact in certain matters by filing within 20 days 9 items of information, and remanding case for purpose stated, entered by CCA 3-25-70.	
3-31-70	Order entered by Thomas, Judge, pursuant to Order of CCA directing defendant Board of School Commissioners to furnish the court the information set out in 9 paragraphs of CCA order not later than April 10, 1970 at 3:00 P. M. (Minute Entry No. 26,887)	
	Copy of order mailed to all attorneys of record. WJO'C.	
4--3-70	Motion filed by plaintiff on 3/11/79 for an order commanding the garnishee to pay over monies and for an order condemning same is GRANTED	

DATE	PROCEEDINGS	Date Ord Judgment
4--3-70	Petition filed by plaintiffs on 3/13/70 for order modifying decree of Jan. 31, 1970 relating to seniors attending Trinity Gardens High School is DENIED.	
4--3-70	Response to plaintiff's motion for Order relative to Trinity Gardens School filed by defendants on 3/23/70 is DENIED.	
4--3-70	Motion to allow modification of Order of Court of Jan. 31, 1970 relative to ninth grade at Prichard Junior High School, etc., filed by defendants on 3/23/70 is DENIED.	
4--3-70	Motion to allow modification of Order of Court of Jan. 31, 1970 relative to Leinkauf Elementary School, etc., filed by defendants on 3/23/70 is DENIED.	
4--3-70	Motion to allow modification of Order of Court of Jan. 31, 1970 relative to Hall School, etc., filed by defendants on 3/23/70 is DENIED	
	Notice of all rulings of court of Apr. 3, 1970 mailed to all attorneys of record,	
4--6-70	Motion to establish procedures on remand filed by plaintiffs,	
4--7-70	ORDER entered directing Garnishee, The First National Bank of Mobile to pay into Court the sum of $1,372.00 being the amount of costs owed by the defendants to the plaintiff and also DISMISSING garnishment proceedings as to Garnishees, The American National Bank & Trust Company of Mobile and the Merchants Nat'l Bank of Mobile, see M/E 26,924,	
4-10-70	Copy of M/E 26,924 mailed to attorneys of record and to Officer of each bank this date,	
4-10-70	AFFIDAVIT filed by JAMES A. McPHERSON, Associate Superintendent of Mobile County Alabama Public School System, in response to Order of District Court dated March 31, 1970 requiring school board to furnish certain information, with exhibits attached,	
4-13-70	Order received from CCA DENYING motion of appellants to enjoin the transfer pending appeal, of students from Trinity Gardens School to Blount School under Jan. 31, 1970 order.	
	Order received from CCA DENYING motion of appellants to require the School Board to supplement the record, since matters sought will be included in supplemental findings to be filed by district court.	
4-14-70	Motion to establish procedures on remand, filed by plaintiffs on April 6, 1970, DENIED. Notices mailed to attorneys.	
4-14-70	SUPPLEMENTAL FINDINGS OF FACT entered by Judge Daniel H. Thomas in response to order of appellate court entered March 25, 1970. (Minute Entry No. 26,964).	
	Certified copy of Findings of Fact mailed to Fifth Circuit Court of Appeals, with original affidavit of James A. McPherson and attached exhibits.	
4-15-70	Copy of Supplemental Findings of Fact mailed to attorneys of record.	
6--2-70	Petition to implement order of desegregation entered by court on August 1, 1969 regarding Saraland (grades 1-5), Lee (grades 1-5), Adams (grades 1-7), and Satsuma (grades 8-12), filed by Board of School Commissioners,	
6--2-70	Petition to implement order of desegregation entered by court on August 1, 1969 regarding entire rural portion of the school system, including the following schools: Alba (grades 1-12), Burroughs (grades 1-6), Davis (grades 1-6), Dixon (grades 1-6),	

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DATE	PROCEEDINGS	Dat Judg
	Grand Bay (grades 1-6), Griggs (grades 1-6), Hollingers Island (grades 1-6), Mobile County High (grades 7-12), St. Elmo (grades 7-8) and Theodore (grades 7-12), filed by Board of School Commissioners,	
6--2-70	Petition to implement order of desegregation entered by court on August 1, 1969 regarding that part of the netropolitan portion of the school system lying west of Interstate Highway 65, including the area served by the following schools: Dickson (grades 1-6), Hillsdale (grades 6-8), Shaw (grades 1-5), Scarborough, (grades 6-8), Orchard (grades 9-12), and Will (grades 1-5), filed by Board of School Commissioners,	
6-11-70	Received from the office of Judge Griffin B. Bell the Supplemental Record on Appeal in Case No. 29332 (Fifth Circuit Court of Appeals Number) which recor d was filed in the Fifth Circuit on Aoril 1, 1970. The documents were forwarded to the Clerk of the Fifth Circuit by Clerk of District Court by letter of trransmittal dated March 25, 1970. The documents received from Judge Bell's office are as follows: 1. Projected Enrollment under zone lines offered by the United States on Jan. 27, 1970. 2. Map No. 1 - Elementary 3. Map No. 2 - Middle Schools. 4. Map No. 3 - High Schools. (MEMO: This item was placed in red manila file)	
6-11-70	Judgment from U. S. Court of Appeals, Fifth Circuit, REVERSING U. S. District Court and remanding cause to District Court, issued as Mandate June 8, 1970,	
6-15-70	Memorandum in opposition to school board's petition to modify attendance zones and grade structures filed by plaintiffs,	
6-12-70	DECREE entered by court pursuant to reversal by Fifth Circuit Court of Appeals, ordering that the area attendance zones offered by U. S. Dept. of Justice on 1/27/1970 be assigned as the school zones under which the public school system will operate beginning with the 1970 Fall semester; further that the faculty and staff shall be assigned on a 60% white and 40% negro ratio; further that school board shall permit a student attending a school in which his race is in the majority to choose to attend another school where his race is in the minority, etc., further that school board is directed to continue to operate transportation, extra curricular activities and school facilities on a non-discriminatory basis, see Minute Entry No. 27,229 copy of decree mailed to all attorneys on June 13, 1970.	
6-29-70	Memorandum of United States in response to defendants' petitions to modify attendance zone lines and grade structures filed,	
7--2-70	Order entered DENYING petition of defendant Board of School Commissioners to rearrange the attendance zones and grade structure of DIXON, HILLADALE, ORCHARD, SCARBOROUGH and WILL SCHOOLS as they were specified in the Court's order of August 1, 1969. (Minute Entry No. 27,316).	
7--2-70	Order entered GRANTING petition of School Board to amend its order of August 1, 1969, as it concerns:	

DATE	PROCEEDINGS	Date Ord. Judgment
	Saraland School - Grades 1-5 Lee School - Grades 1-5 Adams School - Grades 6-8 Satsuma School - Grades 9-12 students at which schools will attend as designated regardless of race. (Minute Entry No. 27,317).	
7--2-70	Copies of each above order mailed to attorneys of record.	
7-7-70	ORDER entered that the school "DIXON" in the order of July 2, 1970 in this cause should be corrected to read "DICKSON" (Min. Entry No. 27342)	
7-9-70	Copies of Min/ Entry No. 27342 mailed to attorneys of record,	
7-13-70	ORDER entered by court AMENDING court's order of June 12, 1970 in the following respect: "Pursuant to Footnote "4" of the opinion of the Fifth Circuit Court of Appeals, entered on 6/8/70 the area attendance zones for the 1969-70 school year are amended as shown by the maps attached hereto marked Exhibit 1, 2, and 3 for the elementary, middle school and high schools respectively, Exhibit 4 attached hereto shows the feeder pattern for the entire school district, In all other respects the Order of June 12, 1970, remains in full force and effect. see Min. Entry No. 27,371	
7-13-70	Copy of court's order with Exhibits 1, 2, 3, and 4 delivered to Abe Philips, C. S. White-Spunner, Jr., Vernon Z. Crawford and Wm. A. Kimbrough, Jr. this date,	
7-13-70	Copy of court's order and Exhibit 4 only mailed to attorneys, Michael Davidson, Walter Gorman, Ralph Kennamer, Pierre Pelham, Solomon S. Seay, Jr., this date,	
7-16-70	Notice of Appeal, filed by Birdie Mae Davis, et al, plaintiffs,	
7-27-70	Projected Enrollment Date Under Zones Lines for High Schools, Middle Schools, and Elementary Schools	
7-28-70	Notice of Appeal filed by Plaintiff-Intervenor, United States of America,	
7-28-70	Order entered DENYING modification in reference to Griggs, Davis and Burroughs Schools as requested by defendants June 2, 1970, M/E No. 27,464 Order entered in regard to establishing bi-racial committee to serve in advisory capacity to School Board, Min. Entry No. 27,465, Copies of Min. Entry No. 27,464 and 27,465 mailed to attorneys,	
7-29-70	Designation of contents filed by plaintiffs,	
7-30-70	Designation of Record on Appeal and Request for Immediate Certification and Transmittal, filed by Plaintiff-Intervenor, United States,	
7-30-70	Order entered making certain changes in July 13, 1970 order pertaining to Dodge School, Dickson School and Westlawn, Min. Entry No. 27,472, Copies mailed to attorneys of record/Exhibits 1,2,3 (maps)	
7-31-70	Record on appeal mailed to U. S. Court of Appeals, New Orleans, La., with 3 exhibits (3maps), and letter of transmittal, copies of which were mailed to attorneys, Designation of Record on Appeal, filed by defendants; Supplemental Record on Appeal, mailed to U. S. Court of Appeals, New Orleans, La.,	

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DATE	PROCEEDINGS	Da Judg
8--5-70	OPINION-ORDER on motion for injunctive relief pending application for certiorari, or in the alternative, to vacate the order of the district court entered on July 13, 1970 in implementation of CCA decision of June 8, 1970 as to student assignment. By order of CCA injunctive relief DENIED, and order of July 13, 1970, modified, establishment of a bi-racial advisory committee to the school board ordered established forthwith. This opinion and order amends and supplements CCA decision and order of June 8, 1970 and shall be considered the final order on this appeal for mandate and certiorari purposes.	
8-12-70	Order entered appointing BI-RACIAL COMMITTEE pursuant to order of this court of July 28, 1970, (Minute Entry No. 27527), committee to be composed of DR. SANFORD D. BISHOP, MR. ISOM CLEMON, MR. M. C. FARMER, MRS. H. EUGENE GIBBONS, MRS. T. C. GILL, MR. ARTHUR OUTLAW, BISHOP W. T. PHILLIPS, MR. O. B. PURIFOY, MR. H. MINGE REED, JR. and MR. BEVERLY R. WILSON, JR. (Copies of order mailed to each member by Judge Thomas).	
8-12-70	Order entered AMENDING ORDER of July 13, 1970, as amended July 30, 1970, so that ROBBINS and HAMILTON elementary schools are to be paired. (Minute Entry No. 27,528).	
8-12-70	Copies of Minute Entries 27527 and 27528 mailed to attorneys of record,	
8-17-70	Notice of Appeal from Order of July 30, 1970 filed by plaintiffs/ Birdie Mae Davis, et al, copies mailed to attorneys of record, with designation Notice of Appeal from Order of August 12, 1970 filed by plaintiffs, Birdie Mae Davis, et al, copies mailed to attorneys of record,	
8-20-70	Projected Enrollment Data for ELEMENTARY, MIDDLE and HIGH SCHOOLS broken down as to U. S. District Court Plan under order of 7/13/70; Fifth Circuit Plan; and U. S. District Court Plan under order of 7/30/70, filed by court.	
8-21-70	ORDER entered that defendants are directed to report to the Court weekly as to each transfer request filed with the school authorities or School Board during said week and a report showing the disposition made to such requests, both by the professionals and the School Board (Min. Entry No. 27565)	
8-21-70	Copies of Min. Entry No. 27565 mailed to attorneys of record this date by Mr. O'Connor,	
8-28-70	Record on Appeal mailed to U. S. Court of Appeals, New Orleans, La., with letter of transmittal, copy of which was mailed to attorneys,	
8-31-70	OPINION-ORDER OF the Fifth Circuit Court of Appeals, said order dated Aug. 28, 1970, ruling as follows: 1. Middle School & High School Zone lines shall be same as those set for in July 13, 1970, order of district court 2. Elementary school zones shall be modified as follows: (a) Palmer & Glendale Schools shall be paired. (b) Council & Leinkauf Schools shall be paired. (c) Area of Whitley zone * * * that lies west of Wilson Avenue shall become a part of Chickasaw zone. (d) Area in Westlawn zone * * * that lies north of Dauphin St. shall become part of Old Shell Road school zone. 3. Counsel will confer & make facts available regarding desegregation of the school system staffs. 4. (See Other side)	

DATE	PROCEEDINGS	Date Order Judgment
	4. Students who refuse to attend the schools to which they are assigned by school board under order of District Court shall not be permitted to participate in any school activities, including the taking of examinations and shall not receive grades or credit. 4. Any time School Board desires to have changes in zone lines made, it shall give reasonable notice to the parties. ORDER OF DISTRICT COURT OF JULY 30, 1970, IS IN ALL OTHER RESPECTS AFFIRMED.	
9--1-70	Petition filed by School Board to be allowed to modify implementation of court's orders of July 13 and 30, 1970 to BE ALLOWED TO CONTINUE OPERATION OF THE SIXTH GRADE AT WESTLAWN SCHOOL. (Court orders eleminated the sixth grade at Westlawn School and reassigned sixth grade students in Westlawn zone to Washington Junior High School and Sidney Phillips Junior High School.) Petition filed by School Board to be allowed to modify implementation of court's orders of July 13 and 30, 1970 to be ALLOWED TO CONTINUE OPERATION OF THE SIXTH GRADE AT MORNINGSIDE SCHOOL. (Court order aleminated the sixth grade at Morningside School and reassigned sixth grade at Morningside to Mae Eanes Junior High School.) Petition filed by School Board to be allowed to Modify implementation of court's orders of July 13 and 30, 1970 to REDRAW ZONE BOUNDARY LINES BETWEEN THE MERTZ ZONE AND THE MORNINGSIDE ZONE to provide for reassignment of students in Belvedere Park and Gulf Terra areas. Petition filed by School Board to be allowed to modify implementation of court's orders of July 13 and 30, 1970 to BE ALLOWED TO ASSIGN STUDENTS IN GRADES 7-9 LIVING IN MERTZ ELEMENTARY ZONE, to MAE EANES JUNIOR HIGH SCHOOL. (Court orders assigned students in grades 7-9 to Washington Junior High School.) Petition filed by School Board to be allowed to modify implementation of court's orders of July 13 and 30, 1970 to CONTINUE OPERATION OF THE SIXTH GRADE AT THE MERTZ SCHOOL. (Court order eliminated the sixth grade at Mertz School and reassigned sixth grade in the Mertz Zone to Washington Junior High School.) Petition filed by School Board requesting the court to reopen Arlington School to serve grades 1-5 for the 1970-71 school yr,	

Docket Entries

District Court Order of April 25, 1963

Oral motion of the plaintiffs that Charles E. McNeil be substituted as President of the Board of School Commissioners of Mobile County in place of William B. Crane, who was named as Chairman of the Board, is hereby granted.

Oral motion of plaintiff to amend affidavit of Mrs. Ola Mae Davis is granted and plaintiff is allowed one week within which to file said amendment.

Motion for preliminary injunction set for hearing this date, at 9:30 a.m., submitted on affidavits pursuant to the order of court of April 12, 1963, is taken under submission. The plaintiffs are allowed to and including May 24, 1963, within which to file brief in support thereof, and defendants are allowed to and including June 10, 1963, to file reply brief.

Done at Mobile, Alabama, this 25th day of April 1963.

DANIEL H. THOMAS
District Judge

Court of Appeals Opinion of May 24, 1963

Before TUTTLE, *Chief Judge,*
and RIVES and BELL, *Circuit Judges.*

PER CURIAM.

This case is here on a petition for an order directing Honorable Daniel H. Thomas, United States District Judge for the Southern District of Alabama, to amend an order entered April 25, 1963, to show a motion on behalf of appellants for an immediate order requiring the School Commissioners to submit a plan of desegregation within thirty days and that this motion was denied by the court, or in the alternative, for an order directing a prompt determination of the motion of appellants for a preliminary injunction, now under submission in the District Court.

Appellants have filed a notice of appeal. Their petition is in the nature of an appeal from the denial of the injunction sought on the premise that a failure to rule amounts to denial, and is therefore appealable, citing United States v. Lynd, 5 Cir., 1962, 301 F.2d 818. The petition is also in the nature of an application for writ of mandamus, but is deficient in this respect in that it was not brought against the District Judge, nor was he accorded an opportunity to answer.

We test the petition on the basis of whether there has been an abuse of discretion on the part of the District Judge. The assertion is that there was an abuse because briefs were requested, and time allowed for the filing thereof, by the court at the time of taking the motion under submission. Appellants contend that the court should have ruled forthwith in view of the undisputed fact that the public schools in Mobile are segregated according to race.

We hold that there was no abuse of discretion, but with this caveat. The matter of the grant or denial of the motion for preliminary injunction, should, as in every case, be promptly determined. It is the duty of Judge Thomas to promptly rule on this motion for preliminary injunction.

It appears that the public schools of Mobile are in fact segregated according to race. This will not do under Brown v. Board of Education of Topeka, 1954, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873. This decision is binding on Judge Thomas. It is binding on all District Courts and all District Judges, just as it is binding on this court. The Supreme Court in the second Brown case, 1955, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083, and in Cooper v. Aaron, 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, wisely left an area of discretion in the desegregation process to the District Courts, feeling that they were close to the local problems, and to school officials, and the children involved. However, the amount of time available for the transition from segregated to desegregated schools becomes more sharply limited with the passage of the years since the first and second Brown decisions. Thus it is that this court must require prompt and reasonable starts, even displacing the District Court discretion, where local control is not desired, or is abdicated by failure to promptly act.

The petition is denied and the appeal dismissed. The Clerk is directed to issue the mandate forthwith.

District Court Opinion of June 24, 1963

DANIEL HOLCOMBE THOMAS, *District Judge.*

This cause was submitted on plaintiffs' motion for a preliminary injunction, directing defendants to present for approval of the court, within a period to be determined by the court, a plan for the reorganization of the entire school system of Mobile County, Alabama, into a unitary nonracial system.

The motion purportedly sought relief in the alternative, but the first alternative prayed permanent relief "upon the conclusion of the trial" and hence did not seek interlocutory relief.

The complaint and motion in this case were filed on March 27, 1963. On April 25, plaintiffs urged the granting of the motion and suggested, in open court, without previous notice, thirty days as the period of time to be determined by the court in which defendants should be ordered to submit a plan for the reorganization of the Mobile County School system. The court took the motion under submission on that date, and directed the parties to file briefs within designated times. The court's action in this matter was appealed by plaintiffs, and the appeal was dismissed by the Court of Appeals by order dated May 24, 1963.

For the reasons stated below, the motion is denied as to the specific relief requested, requiring the presentation of a plan within thirty days. However, an interlocutory order will be entered which will assure the protection of the rights of the plaintiffs.

Based upon the affidavits filed by plaintiffs and respondents and on facts of which the court takes judicial notice, the court makes the following findings of fact.

District Court Opinion of June 24, 1963

FINDINGS OF FACT

1. The Mobile County School System is administered by the Board of School Commissioners of Mobile County, a five-man Board. The professional staff is under the direction of a County Superintendent of Education and his several Assistant Superintendents, each being in charge of a particular phase of Board activities.

2. During the school year 1962-63, there were 89 schools in the Mobile County School system, accommodating a pupil load of approximately 75,000 pupils. More than 2,370 teachers are employed in addition to 105 non-teaching school principals and assistants. More than 200 public school busses are operated by the Board in the transportation of school children in Mobile County.

3. The schools of Mobile County are, and have been since the end of World War II, seriously overcrowded. During this period, the pupil load has doubled. Forty-two percent of the increase in the number of pupils in the State of Alabama since 1940, has occurred in Mobile County. The average annual pupil increase has been 3,000.

4. As a result of the rapid growth of the school population, a building program sufficient to house properly the students fell five years behind. As a consequence, it was necessary to institute half-day or "double" sessions, the number of pupils in double sessions amounting to as many as 14,000 at one time.

5. In an effort to accommodate the pupil load, the School Board has engaged in an accelerated building program, and as a result the physical facilities are gradually overtaking the deficit. The administrative staff of the School Board has employed careful planning to utilize the space available, and throughout this period has resorted to the transportation of pupils from crowded schools nearer their homes to more distant schools where less crowded conditions existed. Many wooden portable classrooms have been constructed and utilized at the more crowded schools. As a result of these efforts, the number of pupils in double sessions has gradually decreased over the years.

6. Fourteen new schools, with more than three hundred rooms, are under construction or are about to be commenced, designed for occupancy in September of 1964. At that time, for the first time since World War II, it is probable that no student within the system will be in double-session classes. However, double sessions must continue through the school year 1963-64.

7. In normal years, in the Mobile County School System, the planning for a school term commences in March before the term beginning in September. The Board of School Commissioners of Mobile County followed the stated practice, and the planning for the session 1963-64 began in March of 1963.

8. Planning by the School Board staff consists of an ascertainment of pupil load based upon careful estimates and formulae derived from the experience of past years.

The gross pupil load for each school is then broken down into class-by-class figures which are furnished to the Assistant Superintendents. Based upon these figures, classes are organized and pupils assigned thereto; the curriculum is established for each school; necessary supplies are determined and ordered; class-room teachers are assigned, involving in many cases individual transfers; and school busses are allocated and routed.

9. The registration of the first-grade pupils for the term 1963-64 was accomplished before the end of the last preceding school term. Each registrant was placed in a class, and teacher assignments made.

10. Substantially all of the planning for the 1963-64 school session has already taken place, and most of the necessary administrative details have been accomplished. Teachers and the administrative personnel of the various schools have largely departed the area for additional professional schooling, or are on vacation, or in other summer employment.

11. Any major re-allocation of pupils, as would be required in a general desegregation process, would require the abandonment of planning already accomplished and the evolving of new plans. Such planning would be more difficult of accomplishment than a normal plan in that the administrative personnel would be without knowledge of pupil distribution, and the formulae evolved in normal years would be inappropriate. Many administrative details already accomplished would require cancellation. It would be necessary that administrative and teaching personnel be

available for consultation and study of the problems peculiar to each of the schools involved. Many of these personnel are unavailable.

12. Teaching personnel would have to be re-assigned in many instances. In the realm of teacher assignment and transfer, many human difficulties exist. Consideration of community needs must be co-ordinated with consideration of individual teacher qualifications and personality. It would be necessary to ascertain the qualifications of each teacher to be assigned to desegregated schools.

13. By reason of limited physical facilities, personnel problems, and administrative commitments, it is not now, nor has it been since the hearing of the motion, reasonably possible to reorganize the school system of Mobile County within such time as to affect the school year 1963-64.

14. The applications by the individual student plaintiffs for transfer to Baker High School during January 1963, were denied for valid administrative reasons.

OPINION

Under the circumstances disclosed by the findings of fact, it is clear that the motion for interlocutory relief cannot be granted as a practical matter, independent of other considerations. The radical revision of school attendance areas and other far-reaching administrative changes in the city-county school system contemplated by the motion, simply cannot be managed within the time available. It is very doubtful that it could have been managed within a period

of four to six months, even if all teachers and other administrative personnel were available for the entire time, which they are not. It is certain that no such order could now be made effective in the absence of every element which would be essential to its success—time, people, and, in all probability, money.

No plan or basis for general rearrangement of an entire local school system should be required by this or any court without affording to both the school authorities and the public ample time for consideration and discussion of alternatives. The arbitrary, hasty, and premature imposition of a plan would defeat the intended purpose and would create confusion, and impair the educational process for all pupils.

That it is impossible to predict what specific plan would be required upon the final outcome of this case, is made plain by the decision of Judge Lynne for the Northern District of Alabama in Armstrong v. Birmingham Board of Education, 220 F.Supp. 217. That decision was filed on May 28, 1963, after the submission of this motion. It holds, following the decision upholding the validity of the Alabama school placement and related laws by the Supreme Court of the United States in Shuttlesworth v. Birmingham Board of Education, 358 U.S. 101, 79 S.Ct. 221, 3 L.Ed.2d 145 (1958), that the principle of the Brown case can be fairly and adequately applied by the school authorities through the processing of applications pursuant to the State laws, and that any denial of constitutional rights in the handling of such applications can be corrected by the District Court on motion or by other proper proceeding.

Although the Armstrong decision would not necessarily be controlling here after final hearing, it does furnish a sound and appropriate basis for rejecting the notion that the sweeping reorganization proposed by the motion is now necessary for plaintiffs' protection.

The Fifth Circuit Court of Appeals, 318 F.2d 63, in its *per curiam* opinion in this case, handed down on May 24, 1963, had this to say: "The Supreme Court in the second Brown case [Brown v. Board of Education of Topeka], 1955, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083, and in Cooper v. Aaron, 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, wisely left an area of discretion in the desegregation process in the District Courts, feeling that they were close to the local problems, and to school officials, and the children involved."

In line with this, I feel compelled to state here that this court ordered the desegregation of the municipal golf course in Mobile on the 13th day of March 1961. That case had been held under advisement for fourteen months. The opinion was written long prior to its release. The time of release was chosen by the court as being opportune, and evidently it was. There has been no incident on the golf course since its integration.

This court took under submission on July 25, 1961, motions to dismiss in the desegregation case involving the facilities of the Mobile Municipal Airport. On October 3, 1961, the motions were denied. The case is still pending, but will be dismissed as moot. The Airport facilities have long since been integrated. The court, close to the community and its problems, believed that this would come about voluntarily and without the necessity of judicial en-

forcement. Relying upon this belief proved providential. There has not been the first incident.

There is now pending in this court a case for the desegregation of the City Bus Lines for the City of Mobile. The City Bus Lines have long since been integrated. There have been no incidents, though the court has never ruled on this case. This case, at the appropriate time, will also very likely be dismissed as moot, though there is one city ordinance which must either be repealed or be stricken down by the court.

The libraries in the City of Mobile have long since been integrated, though no case was ever filed for their integration. Many drugstore lunch counters in Mobile are integrated, and many chain-store lunch counters have been integrated, though no suits have been filed.

Mobile is perhaps the most desegregated city in the South, with no unfortunate incidents. If and when the appellate courts are called upon to pass on the procedure which the District Court here outlines, is it too much to ask that they be mindful of that "area of discretion in the desegregation process to the District Courts," left by the Supreme Court in the second Brown case, and approved as wise by the Court of Appeals for this Circuit in the instant case? If so, this court has every reason to believe that the mandate of the court will be honestly, conscientiously, and fairly carried out with the least possible, if not complete absence of, unfortunate incidents.

The specific relief prayed for in the motion will be denied. The case will be set for trial on the 14th day of November 1963. Consideration of the motion to dismiss,

filed by the defendants, will be reserved until the trial of the cause. Defendants will be granted twenty days from the date of this order to file an answer.

In addition to any other relevant evidence which defendants may choose to offer, they will be directed to prepare and present at the trial a specific plan for the operation of the schools of Mobile County on a racially non-discriminatory basis, consistent with the principles established by the Supreme Court, to commence at the beginning of the 1964-65 school year.

Entered this the 24th day of June 1963.

Court of Appeals Opinion of July 9, 1963

Before BROWN, WISDOM and BELL, Circuit Judges.

PER CURIAM.

Plaintiffs here seek an injunction by this Court pending our determination of the merits of an appeal from an order entered on June 24, 1963, by the District Court for the Southern District of Alabama. This suit originated when Plaintiffs filed a class action seeking the desegregation of the Mobile County school system. Plaintiffs sought an immediate order requiring the Defendant School Commissioners to submit a plan of desegregation within thirty days. This motion was denied by the District Court. In the alternative, Plaintiffs sought a preliminary and permanent injunction prohibiting the further operation of segregated schools. The Court took this motion under submission and ordered briefs to be filed within a specified time. Plaintiffs appealed from this ruling asserting that the failure to immediately rule on the motion for preliminary injunction amounted to a denial of the motion. On that appeal, this Court held that the trial Judge had not abused his discretion. Davis v. Board of School Commissioners of Mobile County, 5 Cir., 1963, 318 F.2d 63.

Subsequently, the District Court held a hearing and made the following determination. By its order of June 24, the Court denied Plaintiffs' motion for preliminary injunction. The case was set for trial on November 14, 1963 and the Defendants were directed "to present at the trial * * * a specific plan for the operation of the schools under their authority and control on a racially non-discriminatory basis, consistent with the principles established by the Su-

preme Court, to commence not later than the beginning of the 1964-65 school year." It is from this order that Plaintiffs have appealed to this Court, seeking in the meantime an injunction requiring the Mobile County schools to commence integration not later than September 1963.

We are in agreement with Plaintiff's theory. The Defendant Board has not come forward with an acceptable reason why the integration program should be further delayed. No one disputes that the public schools of Mobile County are presently operated on a segregated basis.

> "It is now more than nine years since this Court held in the first Brown decision * * * 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873, that racial segregation in state public schools violates the Equal Protection Clause of the Fourteenth Amendment.
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> * * * * *
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> "Given the extended time which has elapsed, it is far from clear that the mandate of the second Brown decision [349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083] requiring that desegregation proceed with 'all deliberate speed' would today be fully satisfied by types of plans or programs for desegregation of public educational facilities which eight years ago might have been deemed sufficient. Brown never contemplated that the concept of 'deliberate speed' would countenance indefinite delay in elimination of racial barriers in schools * * *." Watson v. City of Memphis, 1963, 373 U.S. 526, 83 S. Ct. 1314, 10 L. Ed.2d 529.
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> "Now * * * eight years after [the second Brown decision] was rendered and over nine years after the first

> Brown decision, the context in which we must interpret and apply this language ['all deliberate speed'] to plans for desegregation has been significantly altered." Goss v. Board of Education of City of Knoxville, 1963, 373 U.S. 683, 83 S. Ct. 1405, 10 L. Ed.2d 632.

The District Judge in his memorandum opinion discusses two principal reasons why preliminary injunctive relief should not now be granted. The first is that there would be an impossible administrative burden placed on the school system. The second is the Court's belief, based upon experience over the past several years in other race civil rights matters, that if this action is not too hastily taken, the problem will work itself out with no strife or similar consequences.

For reasons which bear on both of them, we think neither of these grounds is sufficient. The administrative problem is not one created by the Plaintiffs. They have for nearly a year sought without success to get the school authorities to desegregate the schools. The fact that the suit was not filed until March 1963 is not therefore of controlling importance. As to the second ground, there is nothing on the present record to afford either the District Judge or this Court any assurance that the requested forebearance will produce effective results. The Defendants have not even answered as yet. They have filed a motion to dismiss for failure to state a claim. Although it seems to be acknowledged on all hands that a racially segregated system is still maintained, the Defendants' legal position under this motion is that the Plaintiffs have not set forth a claim entitling them to relief. So far as this record shows, the Defendant

school authorities have not to this day ever acknowledged that (a) the present system is constitutionally invalid or (b) that there is any obligation on their part to make any changes at any time. At this late date the Plaintiffs, who represent Negro children who are presently being denied constitutional rights, are entitled to minimum effective relief. With the trial date now fixed in November, it means that effective relief is denied for another school year with no assurance that even at such later date anything but a reaffirmation of the teaching of the Brown decision will be forthcoming. The Plaintiffs showed a clear case entitling them to interim relief pending a final hearing, and it was an abuse of the District Court's discretion not to enter a preliminary injunction.

The "All Writs" statute, 28 U.S.C.A. § 1651, gives us the power to grant the relief sought by Plaintiffs. Stell v. Savannah-Chatham County Board of Education, 5 Cir., 1963, 318 F.2d 425. However, as in that case, we think it more appropriate to frame the injunction and direct by mandate that this injunction be made the order of the District Court.

It is therefore, ORDERED that the District Court for the Southern District of Alabama enter the following judgment and order:

> "The Defendant, Board of School Commissioners of Mobile County and the other individual Defendants (naming them specifically) and their agents, servants, employees, successors in office and those in concert with them who shall receive notice of this order, be and they are hereby restrained and enjoined from requiring and permitting segregation of the races in any school un-

der their supervision, from and after such time as may be necessary to make arrangements for admission of children to such schools on a racially non-discriminatory basis with all deliberate speed, as required by the Supreme Court in Brown v. Board of Education of Topeka, 1955, 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083.

"It is further ordered, adjudged and decreed that said persons be and they are hereby required to make an immediate start in the desegregation of the school of Mobile County, and that a plan be submitted to the District Court by August 1, 1963, which shall include a statement that the maintenance of separate schools for the Negro and white children of Mobile County shall be completely ended with respect to the first grade during the school year commencing September 1963, and with respect to at least one successively higher additional grade each school year thereafter."

The District Court may modify this order to defer desegregation of rural schools in Mobile County until September 1964, should the District Court after further hearing conclude that special planning of administrative problems for rural schools in the county make it impracticable for such schools to start desegregation in September 1963.

This order shall remain in effect until the final determination of the appeal of the within case in the Court of Appeals for the Fifth Circuit on the merits, and until the further order of this Court. During the pendency of this order the trial court is further directed to enter such other and further orders as may be appropriate or necessary in carrying out the expressed terms of this order.

The Clerk is directed to issue the mandate forthwith.

Court of Appeals Opinion of July 9, 1963

BELL, Circuit Judge (dissenting).

I dissent. I would support the view of the District Judge that the time remaining before the opening of school in September is insufficient to make the change from a segregated to a desegregated school system as requested.

The chance of disruption of the educational process in Mobile likely to be encountered in planning and effecting the necessary changes on such short notice outweighs the damage which may be incurred by Plaintiffs in waiting another year. Thus, I would not hold that the District Judge abused his discretion. The loss of the year can be made up by requiring that two grades be desegregated beginning in 1964. I would join in the order if it encompassed this change.

Time for the effectuation of orderly school management procedures is essential, and we should be careful not to give rise to an untoward situation in school administration at this late hour. Registration for the upcoming term has been completed, and school officials and staffs are in the vacation season. This is particularly so where we are passing on a motion in a case not filed until March, 1963.

ON PETITION FOR REHEARING

PER CURIAM.

This matter is before the Court on the petitioners' application for a rehearing.

July 9, 1963, this Court by mandate directed the District Court to enter an injunction and order requiring the Board

of Commissioners of Mobile County to submit to the District Court by August 1, 1963, a step-ladder plan for desegregating the public schools in Mobile, starting with the first grade in September 1963. Three days later, another panel of the Court decided Armstrong v. Board of Education of the City of Birmingham, No. 20595, 5 Cir., 323 F.2d 333. In that case the Court declined to issue an injunction pending appeal which would go so far as to provide "when and how the complete desegregation of the public schools may be accomplished." The Court's mandate requires the Birmingham School Board to submit by August 19, 1963, a plan for an immediate start in desegregation by applying the Alabama Pupil Placement Law to all school grades.

At this initial stage in the travail of desegregating the public schools in Alabama, the School Boards of Mobile and Birmingham face substantially the same social, legal, and administrative difficulties. We express no opinion of the merits of uniformity in school desegregation as against a school board's tailoring a plan and a trial judge's shaping a decree, to fit a particular school system. But we have reached the conclusion that at this early point in the legal proceedings, at a time when no school board in Alabama has formulated any plan for desegregation, there should not be one law for Birmingham and another for Mobile. We have decided therefore to conform the Mobile order to the Birmingham order.

Accordingly, the Court amends the judgment and order of July 9, 1963, issued as the mandate, by deleting the following paragraph:

"It is further ordered, adjudged and decreed that said persons be and they are hereby required to make an immediate start in the desegregation of the school of Mobile County, and that a plan be submitted to the District Court by August 1, 1963, which shall include a statement that the maintenance of separate schools for the Negro and white children of Mobile County shall be completely ended with respect to the first grade during the school year commencing September 1963, and with respect to at least one successively higher additional grade each school year thereafter."

and, in lieu thereof, directs the District Court for the Southern District of Alabama to enter the following paragraph as its judgment and order:

"It is further ordered, adjudged and decreed that said persons be and they are hereby required to submit to this Court not later than August 19, 1963, a plan under which the said defendants propose to make an immediate start in the desegregation of the schools of Mobile County, Alabama, which plan shall effectively provide for the carrying into effect not later than the beginning of the school year commencing September 1963 and thereafter of the Alabama Pupil Placement Law as to all school grades without racial discrimination, including 'the admission of new pupils entering the first grade, or coming into the County for the first time, on a nonracial basis,' Augustus v. Board of Public Instruction, 5 Cir., 1962, 306 F.2d 862, 869 (that opinion describes such a plan which has been approved and is operating in Pensacola, Florida)."

As in the Birmingham decision, the order contemplates a full hearing before the District Court. The District Court will therefore go forward with the trial already fixed for November 14, 1963.

Except to the extent expressly granted herein, the petitioners' application for a rehearing is denied.

The Clerk is directed to issue the mandate, as amended, forthwith.

BELL, Circuit Judge (concurring in part and dissenting in part).

The modification by the majority of their prior order in this case compounds error. Of course, I agree to the modification to the extent that it may alleviate disruption of the educational process in Mobile during the 1963-1964 school term.

My understanding of this latest order is not altogether clear. It appears to simply require activation, under some plan yet to be worked out, of the Alabama School Placement Law which was adopted by the Legislature of that State in 1957, and which was approved as constitutional on its face in Shuttlesworth v. Birmingham Board of Education, N. D. Ala., 1958, 162 F. Supp. 372, affirmed 358 U.S. 101, 79 S. Ct. 221, 3 L. Ed.2d 145. It is not likely that any appreciable amount of desegregation will take place under that law at this late date. The protective measures assured by Judge Lynne in the Armstrong case of a hearing on complaints if and where the plan or law is administered on the basis of race on five days notice is not present in Mobile. It is an inherently complicated law providing many factors which may be considered in making pupil assignments. We

have only recently eliminated two of them in the Atlanta school case where we said that the use of scholastic standards and personality interviews as a basis in transfer and assignment were illegal per se which applied only to Negroes. Calhoun v. Latimer, 5 Cir., 1963, 321 F.2d 302. Others were eliminated or limited when that case was in the District Court. Calhoun v. Board of Education, N. D. Ga., 188 F. Supp. 401. Working out a meaningful plan will not be easy, and will require more than the cursory and perfunctory treatment the case has received here.

Moreover, what was done in Birmingham may or may not be relevant to Mobile. The case there had been pending in the District Court some three years. The District Court conducted a hearing and had certain representatives from the school board as to how the Pupil Placement Law would be administered. Here no party has ever mentioned using this law. The District Court has never considered it.

This case is set for trial on the merits in November. A pending motion to dismiss is set at the same time. The District Court has ordered the school board to propose at that time a plan for desegregation of the school system beginning in September 1964 within the teachings of the Supreme Court decisions on that subject.

It has been the position of appellants that their ultimate right to a desegregated school system is cast in doubt by the pending motion to dismiss, and the fact that the case is set for trial on the merits even though the school system is now segregated. One of the real thrusts of the appeal is their contention that they cannot be certain that desegregation will become a reality in the school term commencing in September 1964 because of this posture of the case. An

order of the type originally entered but making desegregation effective with the beginning of school in September 1964, and in at least two grades, should serve to dispel this doubt and the record warrants such an order. In warrants nothing more. The school board would have the opportunity in the interim of formulating a desegregation plan, subject to court approval, and making ready for the good faith adaptation of the plan.

The modification has been neither sought nor considered and will come as a great surprise to all. It will in all probability be ineffective. I do not understand the inordinate hurry in this case. It has only been pending three and one half months. It has been to this court twice in that short time.

Probably no party will consider the relief granted or denied to be a victory, but what has been done is at the expense of the judicial process. A Court of Appeals should not sit as a District Court in chancery to mold and enter an equitable decree affecting an entire school system in a metropolitan community without hearing from the parties on the nature of the decree, and without facts before it to serve as a basis for the decree. The All-Writs Statute, 28 U.S.C.A., § 1651, does not authorize this. It must contemplate rules of procedure, notice, record facts, and an opportunity to be heard, all after time for consideration by the District Court. It applies only in cases of emergency proportions. To state this belief is to at once demonstrate that I cannot join in the procedure here. Therefore, I must dissent, except as otherwise stated, with the admonition that more constitutional rights will be lost than gained in the long run by departure from procedures which have

stood the test of time, and which are a part of due process of law as we have heretofore known it. In fact, more may be eventually lost in this very case.

While this appeal must have been considered as presenting something in the nature of a judicial emergency in the beginning; otherwise it would not have been twice advanced over the many other cases pending in this court, it is plain to me that it now has no emergency proportions. I would remand it to the District Court for action on the basis of reasoned and informed discretion in the light of necessary facts and argument, consistent with the law in the premises and the guidelines which I have set out regarding September 1964.

CAMERON, Circuit Judge (dissenting).

On July 11, 1963, I requested a hearing of this case en banc by writing all of the Judges of the Court in active service as follows:

> "Pursuant to Rule 25(a) of this Court, I hereby initiate consideration by each of the Circuit Judges in active service of whether to order a hearing or rehearing of this case en banc. Included in this motion is the request that the issuance of the mandate be stayed until the attitude of the members of the Court can be ascertained and that the Chief Judge proceed to poll the Court on this motion. • • •
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> "I am of the opinion • • • that the case was not legally advanced for hearing or placed on the docket for hearing at the time it was heard, it being my understanding that the order was signed by Judge Tuttle on

June 28th after the judgment of the district court had been entered June 24th.

"I think, too, that there is considerable doubt about the jurisdiction of this panel to hear the case. It is my understanding that this panel had under consideration before we adjourned for the summer the Theron Lynd case * * * Its right to consider and adjudicate the Davis case is, I think, subject to serious question.

"I assume that the record before the Court in New Orleans was sent up under our Rule 23(4), which is a substantial rescript of Rule 75(j), Federal Rules of Civil Procedure. That portion of our Rules refers only to a motion 'for any intermediate order.' I do not think the order which this Court directed the district court to enter can be classified as an intermediate order. It seems to me it is the equivalent of a final judgment granting all of the relief which the plaintiffs-appellants would be entitled to under a hearing on the merits and, in fact, dispenses with a hearing on the merits.

"For these reasons and others, including the fact that I see from the press that the appellees have made or intend to make a motion for a hearing en banc, I respectfully make this request."

The panel of Judges BROWN, WISDOM and BELL filed two per curiam opinions, one dated July 9, 1963 in which Judge BELL dissented, and the second filed July 18, 1963 in which Judge BELL concurred in part and dissented in part.

Being advised that a majority of the members of this Court in active service did not support my request for en banc hearing, I respectfully dissent from the action of the

members of the Court in refusing to grant an en banc hearing. The principles discussed in my dissenting opinion in No. 20595, Armstrong et al. v. Board of Education of the City of Birmingham, et al., 5 Cir., 323 F.2d 333, are in my judgment controlling in this case also and I adopt that opinion as a part of this one.

The panel to which this case was assigned by the Chief Judge on July 1, 1963[1] was a panel designated for a former term of this Court. Assuming that it was empowered to act, during the intervening time, on a case which it had under consideration when the term ended, it would not, in my opinion, have jurisdiction to hear the present case under special designation by the Chief Judge acting alone. As stated in the Armstrong case, it seems to me clear from the statutes and the Supreme Court decisions cited there and the Rules of this Court, that the assignment of Judges and of cases for hearing is a matter entrusted solely to the Court as a body.

To hold that one Judge is vested with authority to fix the time and place where a case is to be heard, and to select the Judges who shall hear it, is, in my judgment, to decide that one man has power in excess of any which has been committed to any individual under this government of laws.

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[1] "The within motion for an injunction pending appeal is hereby set for hearing before a panel of this Court to be convened in New Orleans, Louisiana, July 8, 1963, to follow immediately after the hearing in the case of United States v. Lynd, 5 Cir., 321 F.2d 26.

"This 28th day of June, 1963.

"Elbert P. Tuttle
"Chief Judge
"Fifth Circuit"

It is clear, moreover, that there is no showing here that the case is exceptional or extreme or which demonstrates a clear abuse of discretion or usurpation of judicial power such as the panel of this Court thought it discovered in Stell et al. v. Savannah-Chatham County Board of Education et al., May 24, 1963, 318 F.2d 425.

I respectfully dissent.

District Court Order of July 26, 1963

In keeping with the mandate of the United States Court of Appeals for the Fifth Circuit, issued July 18, 1963, amending its judgment and order of July 9, 1963, it is

ORDERED, ADJUDGED AND DECREED by this court that the judgment and order of this court entered July 11, 1963, be and it hereby is amended by deleting the following paragraph:

> "It is further ordered, adjudged and decreed that said persons be and they are hereby required to make an immediate start in the desegregation of the school of Mobile County, and that a plan be submitted to the District Court by August 1, 1963, which shall include a statement that the maintenance of separate schools for the Negro and white children of Mobile County shall be completely ended with respect to the first grade during the school year commencing September 1963, and with respect to at least one successively higher additional grade each school year thereafter."

and in lieu thereof the following paragraph is entered as the judgment and order of this court:

"It is further ordered, adjudged and decreed that said persons be and they are hereby required to submit to this Court not later than August 19, 1963, a plan under which the said defendants propose to make an immediate start in the desegregation of the schools of Mobile County, Alabama, which plan shall effectively provide for the carrying into effect not later than the beginning of the school year

commencing September 1963 and thereafter of the Alabama Pupil Placement Law as to all school grades without racial discrimination, including 'the admission of new pupils entering the first grade, or coming into the County for the first time, on a nonracial basis,' *Augustus* v. *Board of Public Instruction*, 5 Cir. 1962, 306 F.2d 862, 869 (that opinion describes such a plan which has been approved and is operating in Pensacola, Florida)."

Dated this the 26th day of July 1963.

/s/ DANIEL H. THOMAS
District Judge

Opinion of Mr. Justice Black, 8/16/63, Denying Stay

MR. JUSTICE BLACK.

I am asked to stay an order of the United States Court of Appeals for the Fifth Circuit requiring the Board of School Commissioners of Mobile County, Alabama, to take action in two respects: *First:* To refrain "from requiring and permitting segregation of the races in any school under their supervision, from and after such time as may be necessary to make arrangements for admission of children to such schools on a racially nondiscriminatory basis with all deliberate speed, as required by the Supreme Court in Brown v. Board of Education of Topeka, 1955, 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083."

Second: To submit to the District Court "not later than August 19, 1963, a plan under which the said defendants propose to make an immediate start in the desegregation of the schools of Mobile County, Alabama, . . . not later than the beginning of the school year commencing September 1963 . . . ."

Although a judge of the panel which entered this order refused to grant a stay, I would nevertheless stay the order if persuaded by the record that the questions presented for review in the petition for certiorari had sufficient merit to make review by this Court likely. I do not believe that the questions have such merit.

First. Under the facts in the record, the Court of Appeals' order that the Board refrain from "requiring and permitting segregation" is completely justified by our holding in Brown v. Board of Education, 347 U.S. 483, 98 L. Ed.

873, 74 S. Ct. 686, 38 ALR 2d 1180, and 349 U.S. 294, 99 L. Ed. 1083, 75 S. Ct. 753. And see Cooper v. Aaron, 358 U.S. 1, 3 L. Ed. 2d 5, 78 S. Ct. 1401. The injunction was carefully limited to allow "such time as may be necessary to make arrangements for admission of children to such schools on a racially non-discriminatory basis with all deliberate speed . . . ." This injunction was necessary because the record showed without dispute that racial segregation was and had been the unbroken practice in the Mobile schools and that the Board had no plans to do away with that practice in the foreseeable future. Under such circumstances our prior decisions plainly impose upon courts a duty to protect against such unlawful discrimination.

Second. The Board also challenges the requirement that it submit, not later than August 19, 1963, a plan for "an immediate start in the desegregation of the schools of Mobile County" not later than the beginning of the September 1963 school year. In adopting this part of its order, the Court of Appeals rejected the District Court's decree, which allowed the Board to postpone action until after the 1963 school term had begun. The Board argues that to require action for the 1963 school year gives it too little time and could disrupt the school system. But the first Brown decision was rendered in 1954—nine years ago. That case and others that followed have made it abundantly clear that racial segregation in public schools is unconstitutional. Yet this record fails to show that the Mobile Board has made a single move of any kind looking towards a constitutional public school system. Instead, the Board

in this case has rested on its insistence that continuation of the segregated system is in the best interests of the colored people and that desegregation would "seriously delay and possibly completely stop" the Board's building program, "particularly the improvement and completion of sufficient colored schools which are so urgently needed." In recent years, more than 50% of its building funds, the Board pointed out to the parents and guardians of its colored pupils, had been spent to "build and improve colored schools," and of eleven million dollars that would be spent in 1963, over seven million would be devoted to "colored schools." The record fails to indicate when, if ever, the Board intends to take a first step towards making its public school system conform to the constitutional guarantee of equal protection of the laws. Far from claiming that it intended to desegregate the schools, the Board asked complaining parents to believe that "it would be detrimental to 99% of the colored children in the public schools for any token integration to be attempted at this time."

It is quite apparent from these statements that Mobile County's program for the future of its public school system "lends itself to perpetuation of segregation," a consequence which the Court recently had occasion to condemn as unlawful. Goss v. Board of Education, 373 U.S. 683, 686, 10 L. Ed. 2d 632, 635, 83 S. Ct. 1405. And while the second Brown decision said that elimination of racial segregation in public schools should proceed "with all deliberate speed" that term was not intended, as the Court recently emphasized in Watson v. Memphis, 373 U.S. 526, 10 L. Ed. 2d 529, 83 S. Ct. 1314, to excuse an indefinite withholding of constitutional rights. Indeed, in the very Brown Case which

used the term "deliberate speed," the Court also unanimously declared that "While giving weight to . . . public and private considerations, the courts will require that the defendants make a broad and reasonable start toward full compliance with our May 17, 1954, ruling." 349 U.S. at 300. It is difficult to conceive of any administrative problems which could justify the Board in failing in 1963 to make a start towards ending the racial discrimination in the public schools which is forbidden by the Equal Protection Clause of the Fourteenth Amendment, as authoritatively determined by this Court in Brown nine years ago. Compare Watson v. Memphis, supra (373 U.S. at 529, 530); Goss v. Board of Education, supra (373 U.S. at 689).

I cannot believe that this Court would seriously consider upsetting the Court of Appeals' order. The stay is denied.

District Court Order of August 23, 1963

This cause coming on to be considered by the Court pursuant to notice, with counsel for the respective parties being present and heard, on a proposed plan as heretofore filed by the Board of School Commissioners of Mobile County, Alabama, and objections to particulars thereto filed by plaintiffs, it is, upon consideration, hereby

ORDERED:

1. The proposed plan as submitted by the Board of School Commissioners of Mobile County, Alabama, and filed herein on August 19, 1963, pursuant to previous order of this Court, be and it hereby is approved with the following amendments and modifications:

(1) The so-called "cut-off date" for the 1963-64 school term, referred to in paragraph (5) of the Plan and at other places therein, shall be changed from July 31, 1963, to on or before August 28, 1963, for 12th grade pupils.

(2) The defendants, prior to the beginning of the 1963-64 term of school on September 4, 1963, shall process all applications for transfer heretofore received, and all such applications for transfer of 12th grade pupils that may be received not later than said extended date, August 28, 1963.

This Court retains jurisdiction for the purpose of making and entering such further orders as may be necessary to accomplish the essential purposes of the Plan as herein modified and approved.

DONE AND ORDERED at Mobile, Alabama, this the 23rd day of August 1963.

DANIEL F. THOMAS
District Judge

Court of Appeals Opinion of June 18, 1964

Before MARIS,* GEWIN and BELL, *Circuit Judges.*

GEWIN, *Circuit Judge.*

This appeal presents for our review litigation with respect to the desegregation of the public school system of Mobile County, Alabama. The case has received the attention of this Court on two former occasions. The first time it arose on a petition in the nature of an appeal from an alleged denial of injunctive relief, which petition was grounded on the premise that the failure of the District Court to rule promptly constituted a denial of relief and was therefore an appealable order. In addition the petitioners sought relief in the nature of an application for writ of mandamus directed to the District Judge. The petition was denied and the appeal dismissed. Davis v. Bd. of School Commissioners of Mobile County, Alabama (5th Cir. 1963) 318 F.2d 63.

After hearing in the District Court, an appeal was taken, and the cause was advanced on our docket pursuant to a motion for an injunction pending appeal. This Court granted the injunction pending appeal on July 9, 1963, and on petition for rehearing amended its order on July 18, 1963. Davis v. Bd. of School Commissioners of Mobile County, Alabama (5th Cir. 1963) 322 F.2d 356, cert. den. 375 U.S. 894, 84 S.Ct. 170, 11 L.Ed.2d 123. We now consider the appeal on the merits.

In its original order dated June 24, 1963, the District Court denied injunctive relief against the Board of School Commissioners as sought by the plaintiffs (appellants).

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* Of the Third Circuit, sitting by designation.

Davis v. Board of School Commissioners of Mobile County, Alabama (D.C.S.D.Ala. 1963) 219 F.Supp. 542. Following our decision, supra, the District Court entered its order dated July 11, 1963, amended July 26, 1963, pursuant to the mandate of this Court. Thereafter the School Board presented a plan to the District Court for its consideration. After a hearing on objections resulting in some modifications, the District Court approved the plan and the plaintiffs appealed. The plan operated during the school session commencing in September, 1963, but was limited to the 12th grade, and it was not applied to rural schools.

We deem it unnecessary to set forth the details of the proposed plan except to say that it was based essentially upon the Alabama Pupil Placement Law. While somewhat more detailed and precise, the *Mobile* plan was similar in many essential respects to the plan proposed in *Birmingham*, Armstrong v. Bd. of Education of the City of Birmingham, Alabama (5th Cir. 1964) 333 F.2d 47, the opinion in which has been rendered simultaneously with this opinion. It should be noted that the mandates of this Court in *Mobile* and in *Birmingham*, when we granted an injunction pending appeal, are essentially identical, except that in *Mobile* the District Court was authorized to defer desegregation of rural schools in Mobile County until September, 1964.[1] There are other differences in the two cases.

[1] "The District Court may modify this order to defer desegregation of rural schools in Mobile County until September 1964, should the District Court after further hearing conclude that special planning of administrative problems for rural schools in the county make it impracticable for such schools to start desegregation in September 1963." Davis v. Board of School Com'rs of Mobile County, Ala. (5th Cir. 1963) 322 F.2d 356.

For example, in *Mobile* the Board of School Commissioners operates the entire school system for Mobile County and there is one Superintendent of Schools for the entire county. Differences which do exist are not material to our consideration here.

As mentioned above, we have rendered our opinion on the merits of the *Birmingham* case simultaneously with this opinion. Our decision in *Birmingham* is controlling here, and we consider it unnecessary to repeat now what was there said, except to point out some of the more salient factors with respect to minimum requirements in school desegregation cases of this type. We emphasize here as we did in *Birmingham*, that plans for desegregation must now proceed at a swifter pace in view of the ten-year period which has elapsed since the first *Brown* decision;[2] the responsibility and duty resting on school boards to provide a constitutional plan of desegregation; the necessity for the constitutional administration of the Alabama Pupil Placement Law without regard to race or color; the hearing of complaints by the District Court with respect to the denial of constitutional rights, thus avoiding cumbersome administrative procedure; timely notice of the plan to interested persons; the abolition of dual school zones, areas, or districts;[3] and the retention of jurisdiction by the District Court for further implementation and supervision.

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[2] Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954). See also the implementing decision. Brown v. Board of Education, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083 (1955).

[3] As to such dual districts, school zones, or areas, the brief of the Board of School Commissioners states:

"By implication, at least, in reference to attendance at schools of the district of the residence of each of the pupils

Court of Appeals Opinion of June 18, 1964

Upon consideration of the evidence before us and giving consideration to the circumstances here involved, it is our conclusion that this cause be remanded to the District Court with instructions to require the Board of School Commissioners of Mobile County, Alabama, to present to the District Court forthwith for its consideration a plan of desegregation which will meet the minimum standards set forth and outlined in the *Birmingham* case.

The order of the District Court heretofore entered on June 24, 1963, denying injunctive relief is vacated; the orders of the District Court entered on July 11 and 26, 1963, pursuant to our mandate in this case, are continued until modified by the District Court; and the cause is remanded for the entry of appropriate orders not inconsistent herewith.

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when the plan has progressed to that particular grade, the system would be operating under a single-type district or attendance area arrangement. Again, without all of the testimony adduced in the trial of the cause on the merits, before this court presently, it is difficult to present the entire picture. At the time of the trial on the merits, the Superintendent testified that there were only a few dual zones within the system presently. He further testified that a major re-evaluation and re-draft of the school districts was in progress, or about to commence, which would eliminate even those few dual districts that existed. Consequently, the objection by appellants to this aspect of the plan is one of letter rather than substance."

District Court Orders of July 29, 1964 and July 31, 1964

THOMAS, District Judge.

It is hereby ordered that the Board of School Commissioners of Mobile County, and the members thereof, submit to this the United States District Court for the Southern District of Alabama by filing with the Clerk thereof, on or before July 17, 1964, a plan for desegregation in accordance with the directions and terms of the opinion and mandate of the United States Court of Appeals for the Fifth Circuit (in case No. 20657, Birdie Mae Davis, et al, Appellants vs. Board of School Commissioners of Mobile County, et al, Appellees) rendered and issued June 18, 1964.

It is further ordered that on or before the date of the filing thereof, a copy of said plan be served by defendants in the manner provided by the Federal Rules of Civil Procedure, by mail or otherwise, upon the attorneys for the plaintiffs in this action, and that any objections to said proposed plan which plaintiffs may desire to make, be filed and served upon the attorneys for the defendants on or before the 27th day of July, 1964. Hearing on such objections as may be filed will be heard before this Court in Mobile, Alabama, at 10:00 o'clock A.M., on July 29, 1964.

Ordered 29th day of June, 1964.

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District Court Orders of July 29, 1964 and July 31, 1964

AMENDMENT TO PLAN SUBMITTED BY THE BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, PURSUANT TO ORDER DATED JUNE 29, 1964

This Amendment to the Plan heretofore submitted under order of this Court dated July 11, 1963, as amended July 26, 1963, is submitted pursuant to the order of this court entered June 29, 1964. Said order requires the submission of a plan to conform to the opinion and mandate of the United States Court of Appeals for the Fifth Circuit, rendered and issued June 18, 1964.

The plan heretofore submitted is amended as follows:

1. By deleting Paragraph E. thereof and substituting in lieu thereof the following:

"E. Pupils entering the first grade for the school year 1964-65 were pre-registered near the end of last term and estimated enrollments for September, 1964, were developed last February as to all grades except the first, eleventh and twelfth; following pre-registration, the estimated enrollments were developed for the first grade; and, following the close of the April 1-15 transfer request period, for the 11th and 12th grades; building and classroom capacity have been adjusted thereto; school supplies, textbooks, and other materials and equipment have been allocated accordingly; schools have been staffed and teachers assigned on the same estimated enrollments; and"

2. By deleting Paragraph G. thereof and substituting in lieu thereof the following:

"G. The problems in connection with any desegregation of the schools outside the corporate limits of the City of Mobile are substantially different from the problems involved for desegregation within the City of Mobile including the assignment of the components of an intricate transportation system and it is not administratively feasible to expand this plan beyond the 11th and 12th grades for those schools outside the corporate limits of Mobile during the term 1964-65."

3. By deleting Paragraph (4) thereof and substituting in lieu thereof the following:

"(4) *Applicability of Plan:* This plan had application in the school year 1963-64 to the 12th grade, in the City of Mobile schools only. In the school year 1964-65 it shall have application to the 11th and 12th grades in all schools of Mobile County; and to the 1st and 10th grades in City of Mobile schools. In 1965-66 it shall have application to Grades 1, 2, 9, 10, 11 and 12 of all schools of Mobile County; in 1966-67 to grades above listed and in addition, to grades 3 and 8; in 1967-68 to grades above listed and in addition to grades 4 and 7; in 1968-69 to grades above listed and, in addition, to grade 6; and in 1969-70 to grades above listed and, in addition, to grade 6."

4. By deleting Paragraph (5) thereof and substituting in lieu thereof the following:

"(5) *Special Provisions for 1964-65:* The period of August 4 through 6 is hereby established wherein 1st and 10th grade pupils in the City of Mobile may request transfers from schools to which they are assigned for 1964-65 or at which they are pre-registered. The transfer provisions of this plan shall apply and race or color will not be considered in acting upon these applications. Notice of action taken by the Assistant Superintendent on such requests will be given on or before August 22nd. Such action shall be final unless a Board hearing is requested in writing to reach the offices of the Board on or before 5:00 P.M., August 28th. Public notice of this special transfer request period shall be given in a daily newspaper of general circulation in Mobile County, as a conscious reminder to parents and guardians."

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THOMAS, *District Judge.*

ORDER APPROVING PLAN AS MODIFIED

This cause coming on to be considered by the Court pursuant to notice, with counsel for the respective parties being present, on a proposed Plan as heretofore filed on July 21, 1964, by the Board of School Commissioners of Mobile County, Alabama, and objections to particulars thereto filed by plaintiffs, it is, upon consideration, hereby

ORDERED:

The proposed Plan as submitted by the Board of School Commissioners of Mobile County, Alabama, and filed herein on July 21, 1964, pursuant to the prior order

of this Court, be and it hereby is APPROVED with the following amendments and modifications:

(1) The period established in said Plan wherein first and tenth grade pupils in the City of Mobile may request transfers, as set out in Paragraph (5) thereof, shall be changed from August 4 through 6, to August 3 through 10. Tenth grade pupils outside the corporate limits of the City of Mobile may also request transfers during said period.

(2) The public notice of the special transfer request period as called for in Paragraph (5) of said Plan shall consist of the publication for three consecutive days, commencing Saturday, August 1, 1964, in a daily newspaper of general circulation in Mobile County, of a notice setting out the period wherein transfer requests may be made; the grades affected thereby; and the procedures for requesting such transfer.

(3) The application of said Plan for the school year 1964-65, as set out in Paragraph (4) thereof, shall be changed so that the Plan shall have application in school year 1964-65 to the 10th, 11th and 12th grades in all schools of Mobile County and to the first grade in City of Mobile schools.

This Court retains jurisdiction for the purpose of making and entering such further orders as may be necessary to accomplish the essential purposes of the Plan as herein modified and approved.

Done and entered at Mobile, Alabama, this the 31st day of July, 1964.

District Court Opinion of March 31, 1965

THOMAS, *District Judge.*

FINDINGS OF FACT

1. Reduced to its basic terms the desegregation plan under which the defendant Board is operating the schools is as follows:

a. Each elementary school has a single attendance area. Each Junior High School serves a combination of attendance areas. Each Senior High School serves a larger combination of elementary attendance areas.

b. It divides students, for administrative purposes, into 3 categories: (1) Those now attending a particular school, by race, because of their residence in what was formerly a dual zone; (2) those now in attendance at schools where dual racial zones have never been involved; and (3) those entering the school system for the first time (either as 1st graders, newcomers to the system in other grades, or those who have moved from one attendance area to another).

c. Students remain where enrolled unless a transfer is granted. Those in category (1) are granted transfers unless some compelling non-racial consideration dictates otherwise; those in category (2) are considered for transfer without regard to race but applying other proper factors alike to all.

d. Newcomers, 1st graders and persons moving to a different attendance area have the absolute right to enroll in the school of the attendance area of their resi-

dence or the option to enroll at the nearest school formerly serving their race.

e. The plan has application to grades 1, 2, 9, 10, 11 and 12 in the school year 1965-66; to two additional grades per year for the next two years; and to one additional grade per year for the last two years.

2. A fifteen day transfer request period is prescribed for April 1-15 of each year, and prospective first grade pupils are pre-registered later in April for the following year. The practice of designating a period for transfer requests prior to the school year wherein they will be effective and the practice of preregistering first graders are administrative procedures long followed by the defendant Board, their inception having been before the knowledge of the present Superintendent who entered upon his duties with the Board in 1948.

3. The defendant Board makes no initial assignments of individual pupils, but permits the free exercise of options provided without regard to present racial make-up of the school or to the race of the pupil.

Initial enrollment involves no transfer nor other special action of the Board. The exercise of the option is accomplished simply by the pupil presenting himself at the school he selects and enrolling. This is the case whether the student is entering the 1st grade, is a newcomer, or has moved from one district to another. It is also true regardless of the race of the pupil or the racial composition of the school.

4. The dual attendance areas based upon race have been abolished and a new single attendance area system estab-

lished. A map setting out the boundaries of the new attendance areas has been furnished the court, considered by it and forms a part of the record in this cause. The practice of granting transfers to those enrolled in a particular school because of the old dual attendance areas has overcome the discrimination existing because of these.

5. The newly adopted single attendance areas were not racially devised but arranged by giving due weight to proper factors, e.g., natural and nan-made barriers; safety factors, such as major thoroughfares; maximum use of facilities; transportation facilities and patterns, and other like considerations. The majority of these attendance areas have both races residing therein.

6. The neighborhood school organization is a longstanding practice in the administration of the school system in Mobile County. It is founded on a sound educational basis and the defendant Board is amply justified in its use.

7. The defendant Board has historically permitted parents some flexibility in selecting a school. A rigid system that requires all children of an area, without exception, to attend a particular school fails to take into account that school patrons and pupils are individuals with choices, likes and dislikes. Such rigidity is a major handicap to proper educational processes. However, such flexibility is limited by good administrative practices which require a reasonable amount of specificity to permit adequate planning.

8. There are more than 79,000 pupils in the Mobile County School System. There are 94 schools presently in

the system with 8 additional schools in planning or construction. Half-day sessions have been eliminated but 39,000 students are in overcrowded conditions. The schools in the system have not been designated by race since the adoption of the plan.

9. In the administration of its plan, there is no evidence of any discrimination by virtue of race. The evidence supports equal application of the policies and provisions of the plan to both races and the Court so finds as a matter of fact.

10. No special tests are administered to pupils of either race requesting transfer. No denial of transfer is based on any test result. No transfer has been denied arbitrarily or unevenly as between the races. Approximately 500 pupils filed requests for transfer for the school year 1964-65 and less than half were granted. None was denied on the basis of race. This is a normal proportion of denials based upon past years' experiences of the Board.

11. Sixteen Negro pupils requested transfers for the term 1964-65 to formerly white schools or schools with predominantly white student bodies. Seven were granted and nine denied. Each denial was based upon a non-discriminatory factor and transfer requests for many white pupils were denied on the same grounds.

12. The plan of the defendant Board contains criteria for use in the consideration of transfers, some of which have been discredited by the Courts. The Board did not use

any of such discredited criteria in the weighing of transfer applications for the year 1964-65. These criteria should be stricken from the plan.

13. This Court has retained jurisdiction of this cause for further proceedings and to hear any complaints or charges of discriminatory application of the defendant Board's plan. No complaint has been lodged or filed with this court by any individual as to any discriminatory actions of the Board in the administration of the plan.

14. Normally all pupils enrolled in a particular school do not commence attendance at the school for several days, even up to two to three weeks after school opens. The average daily attendance at any school in the Mobile County system from students already enrolled there will normally increase during the first month of school.

15. It is not practicable nor desirable for the Board to attempt to advise parents as to what school a child should apply for transfer to. Parental desire is a factor in granting transfers. Further it is not feasible for the defendant Board to act on transfer requests individually as received, since the effect of the total transfer requests must be appraised before any may fairly be granted. The defendant Board has, as a matter of practice over the years, deferred action on any request until all are received and the end of the transfer request period reached.

16. From 1,000 to 3,000 pupils change schools annually in the Mobile County school system because their parents

move from one attendance area to another. These changes are in addition to the normal transfers for other valid reasons. Those pupils so moving are permitted simply to report to the school of their attendance area or the optional school without the necessity of transfer.

17. The teachers and administrators of those schools where Negro pupils attend with a predominantly white student body have been fair and have treated the Negro students as any other pupil. While two of the student witnesses testified to minor harassment by some students, it is clear from their testimony that the teachers treated them in a normal relationship. Breach of good conduct by white pupils was promptly dealt with by administrative personnel when reported or observed.

18. It was the opinion of the student witnesses that the course of studies at Murphy High School was more difficult than their prior school, Williamson; that they were learning more and the facilities were better at Murphy. The Court accepts this as findings of fact. Facilities vary from school to school as do teaching quality and standards. The Court takes judicial knowledge that Murphy High School is the largest school in the Mobile system and one of the largest in the State of Alabama. A large number of schools in the Mobile County system are overcrowded and the defendant Board has been building new schools at a rapid rate. The actual physical plants in those schools attended predominantly by Negro pupils are essentially equivalent to those attended predominantly by white students; the teacher qualifications are the same; the salary schedules are the same; and the per capita expenditure is the same.

19. A larger variety of special courses is offered at those schools attended predominantly by white pupils, although in many instances the number of schools offering a particular course is only one more in the case of white pupils. There are about 50% more white pupils in the system than Negro pupils, making it reasonable that more schools attended predominantly by white pupils would offer a particular special subject. Many factors enter into a determination of courses offered in a particular school, and the course offerings vary from school to school without necessary regard to the race of the pupils. Facilities, pupil interest, location, and socio-economic factors all affect course offerings. There is no evidence that any application for transfer for the current year was predicated on a desire for a special course not offered by the school the pupil had been attending. The Assistant Superintendent in charge of pupil personnel could not recall a single such request.

20. The procedures for requesting a transfer have been administered without discrimination. It is required that a parent or guardian obtain the form from the School Board office. This is to prevent immature actions by pupils, who might abuse the transfer process. The requests must be signed by both parents, if reasonably possible; or when not practicable to do so, such circumstance must be noted. Not infrequently parents are divided over the choice of school, and a transfer should be granted only where the family is united in the request. The Court finds no good purpose to be served by the requirement that the executed form must be returned by the parent in person.

21. The proceedings in this cause have had wide publicity in Mobile County. Details of the plan, orders of the Court, and periods designated by the plan and the Court have been disseminated through front page stories in the local press. In addition, a legal advertisement approved by this Court, was published. Some 500 pupils actually requested transfer within the designated period.

22. The assignment of teachers and administrative personnel without regard to race raises different and even more delicate problems than are encountered in pupil desegregation. The close personal relationship that must exist between teacher, pupil and parents for maximum educational effect would be adversely affected by any efforts toward teacher and staff desegregation at this time. Local school officials testify that the supply of qualified teachers while increasing, is still inadequate and that any desegregation of teachers or staff at this time would result in the loss of some qualified teachers now employed. The Court finds this to be a probable result.

23. It is not necessary or desirable to desegregate teachers and administrative personnel in the desegregation process as to pupils in the schools of Mobile County. It is the finding of the Court that such a step would render the desegregation of pupils more difficult and add a premature burden to the defendant Board, which is in good faith proceeding with the administration of its plan.

District Court Opinion of March 31, 1965

CONCLUSIONS OF LAW

1. The selection of the desegregation plan is the function of the School Board, rather than the Court. Once formulated by the Board, the Courts are charged with scrutinizing it for any discriminatory features.

It is elementary that the courts cannot plan, administer and operate the public school system. The selection and activation of the particular method or plan of desegregating a school system is the responsibility and function of the School Board in the first instance. These two principles have been enunciated in most of the school desegregation suits. The Board, with its knowledge of local conditions, its experience with established administrative procedures, and having at its disposal persons possessed of professional training and skills, is the only entity fully qualified to carry out the "duty and responsibility to formulate a desegregation plan." The case of *Briggs* v. *Elliott,* 132 F. Supp. 776, adopted as to reasoning by the Court of Appeals for this Circuit in *Avery* v. *Wichita Falls,* 241 F.2d 230 and in *Boson* v. *Rippy,* 285 F.2d 48, summarizes the philosophy underlying these principles, as well as the judicial function:

> "The Supreme Court has pointed out that the solution of the problem in accord with its decisions is the primary responsibility of school authorities and that the function of the courts is to determine whether action of the school authorities constitutes 'good faith implementation of the governing constitutional principles.' "

The basis for these established principles is expressed somewhat differently in *Kelley* v. *Board of Education of Nashville,* 270 F.2d 209:

> "Because of the nature of the problems and the local conditions, the school authorities often find that action taken by other school districts is inapplicable to the facts with which they are dealing . . . the public interest must be considered, along with all the facts and conditions prevalent in the school district. Educational standards should not be lowered."

Following directly after this reasoning, the court goes on to point out the judicial function:

> "If the school authorities have acted and are proceeding in good faith, their actions should not be set aside by a court so long as their action is consistent with the ultimate establishment of a non-discriminatory school system at the earliest practicable dates."

The Board of School Commissioners of Mobile County has selected and prescribed a plan founded in administrative procedures applicable to local conditions and established by many years' use. It is soundly conceived and developed from an educational standpoint. So long as the plan is non-discriminatory, the basic elements should not be disturbed by the Court. This is the only test the Court should apply.

2. The desegregation plan in use in Mobile County is a constitutional plan.

The plan in use for the past two years in the Mobile school system is non-discriminatory. This Court, on two prior occasions, and the Court of Appeals for this Circuit, on one occasion, have considered the Mobile County plan and found it to meet constitutional standards in all particulars save speed of application and minor time provisions. It is a plan founded upon educational concepts and administrative procedures in use in Mobile County for many years. It is, and has been, an attendance area system, utilizing the concepts of the neighborhood school, limited administrative control of enrollment but without utter rigidity, and provisions for a transfer request period for upper grades and a pre-registration time for 1st graders. These concepts and procedures are efficient and non-discriminatory bases for the administration of a school system.

The use of school attendance areas, if not devised on racial lines, is non-discriminatory and is a proper provision in a desegregation plan. *Downs* v. *School Board,* 336 F.2d 988, cert. den. ——U.S.—— (March 1, 1965). This Court has considered the newly defined single zone attendance areas and the testimony of those who re-defined these areas and has found as a matter of fact that the attendance areas were not racially devised but were laid out in accordance with proper factors and are, therefore, constitutional.

The plan makes use of the Alabama Pupil Placement Law as a proper vehicle of administration. That portion of the plan founded upon the Alabama Pupil Placement Law continues all pupils at the schools where they are in attendance unless a transfer is granted. The plan provides

for the consideration of transfer requests without regard to race. As a part of the transfer provisions, the Board has so interpreted the plan as actually to discriminate in favor of Negro students who, because they formerly lived in an old dual district, are attending a school predominantly of their own race. Under those circumstances transfers are permitted without the application of any of the criteria under the Pupil Placement Act. This has the effect of curing a discriminatory situation pre-existing the inception of the plan, for those pupils whose parents desire that result. The Alabama Pupil Placement Act is, on its face, constitutional, and the fact that the defendant School Board affords an opportunity to cure past inequities merely accentuates the propriety of the Board's use of the Placement Act.

Engrafted to the basic pupil placement law plan, the Board has made further provision to permit the initial enrollment, as a matter of absolute right, of first graders, newcomers, and people moving from one attendance area to another, in the school of the attendance area of the residence of the pupil. The option is granted to any pupil for any reason, to enroll initially at the nearest school formerly serving his race. The absolute right to attend a school within the attendance area of the residence, coupled with the option, is proper in the local situation, since it affords some flexibility but has a limiting effect desirable for planning purposes. Since the present attendance areas are not racially designed and a majority of the attendance areas have persons of both races living within them, the tendency of these provisions would be to promote desegregation but not to require integration. The Court is of the opinion that

the option granted to initial enrolees does not violate the prohibition against "minority transfers." The option is granted without regard to the race of the pupil, the reason for the exercise of the option, present racial makeup of the school within the attendance area, or the present racial makeup of the optional school. The "minority transfer" rule, enunciated in *Goss* v. *Board of Education,* 373 U.S. 683, deals, of course, with transfers as opposed to initial enrollment. The same principles would govern. There the court said:

> "Our task then is to decide whether these transfer provisions are likewise unconstitutional. In doing so, we note that if the transfer provisions were made available to all students regardless of their race and regardless as well of racial composition of the school to which he requested transfer we would have an entirely different case. Pupils could then, at their option, (or that of their parents) choose, entirely free of any imposed racial considerations, to remain in the school of their zone or to transfer to another."

In addition, the case distinguished situations such as here presented, by saying:

> "Likewise, we would have a different case here if the transfer provisions were unrestricted, allowing transfers to or from any school regardless of the race of the majority therein."

This plan meets the test prescribed in *Northcross* v. *Board of Education,* 302 F.2d 818, wherein the Court said:

"Minimal requirements for non-racial schools are geographic zoning, according to the capacity and facilities of the buildings and admission to a school according to residence as a matter of right."

Except as to speed of application, the particular plan now before the court is the same plan as was before the Court of Appeals in 1964, *Davis* v. *Board of School Commissioners*, 333 F.2d 53. At that time, the Court approved it as to all elements except speed. Seven criteria were set out in that opinion, all of which have been met by the present plan. All of these criteria, except speed of application, were present in the plan as considered at that time. It is a constitutional plan and if it be constitutionally administered, any effort to effect a change therein must fail.

3. The desegregation plan has been administered without discrimination by the defendant Board.

The burden of much of plaintiff's argument was that only a limited number of Negro students "have experienced desegregated education" under the desegregation plan as administered in Mobile County.

The Supreme Court has declared that *Brown* v. *Board of Education*, 347 U.S. 483, "decided that enforced racial segregation in the public schools of a State is a denial of the equal protection of the laws enjoined by the Fourteenth Amendment." *Cooper* v. *Aaron*, 358 U.S. 1.

As was said in *Briggs* v. *Elliott*, supra:

"The constitution, in other words, does not require integration, it merely forbids discrimination. It does not

forbid such segregation as occurs as the result of voluntary action."

Again, in *Downs* v. *School Board*, supra, as to which the Supreme Court denied certiorari on March 1, 1965:

"... The better rule is that although the Fourteenth Amendment prohibits segregation, it does not command integration of the races in public schools and Negro children have no constitutional right to have white children attend school with them."

The *Downs* case is in accord with decisions from the Fourth, Fifth and Sixth Circuits, cited as supporting this basic rule.

The Court of Appeals for this Circuit in *Boson* v. *Rippy*, 285 F.2d 43, 48 points out:

"Indeed, this Court has adopted the reasoning in *Briggs* v. *Elliott* . . . and has further said: 'The equal protection and due process clauses of the Fourteenth Amendment do not affirmatively command integration, but they do forbid any state action requiring segregation on account of their race or color of children in the public schools. *Avery* v. *Wichita Falls*, etc. 241 F.2d 230, 233.'"

Those transfer requests that were denied by the defendant Board for the current school term, were denied without regard to race. Some requests for transfer were filed after the termination of the transfer request period and were properly denied for this reason. It is reasonable that

there be a deadline for making transfer requests since the Board makes no determination as to granting transfer requests until after all are received in order that the effect of such transfers on particular schools may be measured. This is a reasonable requirement and the Board has denied transfer requests by pupils of both races if they were filed after the end of the transfer request period. Other transfer requests were denied because they requested transfers outside the attendance area of the residence of the pupil and no valid reason for making an exception to the rule appeared. These involved pupils who never resided in one of the old dual school zones and the denials were proper. Again, the Board acted in the same manner in the case of Negro and white pupils. Other transfer requests were denied because they sought transfer to a school which was so overcrowded that as many as 100 students were then being transported away from the school to which the transfer was requested. These were denied for proper and reasonable reasons without regard to race.

Criteria set out in the plan from the Alabama Placement Act such as those lettered (l) and (n), have to do with public hostility; and, such as (i) and (m), have to do with psychological effects upon the transferee or the pupils in attendance at the school to which the transfer is requested. As a matter of law, these criteria are not properly retained in the plan and must be deleted. The Board does not give any special tests in considering transfers and test results have not formed the basis, and do not, for the granting or denial of transfers. While this Court will not require that the provisions for testing be stricken, it does require that

if tests are used, they be used without regard to race. The Court finds no practice nor intention on the part of the Board to use any special testing procedure in acting upon transfer requests.

Earlier in this opinion, while considering the plan itself, the Court concludes that the redrawing of school attendance area lines to eliminate the last vestiges of the dual zone system, has been done without regard to racial factors but upon proper educational considerations. In the administration of the plan the Court recognizes the right of the Board to make use of school attendance areas, and finds as a matter of law that the school attendance areas are prepared without discrimination.

For the reasons set out in the Findings of Fact, the Court finds the requirement that a parent pick up a transfer request at the School Board office, and that it be signed by both parents unless such be impracticable of accomplishment, are reasonable and proper safeguards in and about the administration of the public school system, so long as these procedures are administered alike to both races. The Court has found that the requirement was so administered. The requirement that the completed form be returned in person by the parent is unreasonable and said forms may be returned by mail. With this change, the transfer procedure is reasonable and not unduly burdensome.

The Court is convinced that the notice given of the terms of the plan and of the deadlines involved in prior years has been reasonable in view of the limited time available to give such notice. However, with the time now available to defendant Board before the transfer request period and the beginning of the ensuing school year, the Court is of the

opinion that some additional information should be furnished to school patrons with regard to the terms of the desegregation plan and the various deadlines involved. The decree entered pursuant to these findings and conclusions will direct the defendant Board to give such additional notice, through ordinary school channels, to school patrons as will afford them a reasonable and conscious opportunity to apply for transfer or admission of pupils to any school they would otherwise be eligible to attend without regard to race. This notice has been approved by the Court and is a part of the record in this case. (See Appendix A)

4. In 1964-65 the speed of application for the plan was doubled. It is now applicable to grades projected by the Court of Appeals to completion in 1969. One-half the grades will be affected in 1965-66 in the third year of the administration of the plan. Circumstances, as adduced from the testimony and the answers to interrogatories, demonstrate the desirability of continuing with a rate of speed as set out in the plan. The schools are still crowded, the system continues to grow, the pace of building new schools and adding to existing facilities to catch up continues without abatement. The maintenance of educational standards and provision of time to solve problems created by desegregation and crowded conditions dictate adherence to the schedule prescribed. As a matter of law, the defendant Board has borne its burden of demonstrating justification for no additional increase of speed.

5. There is no right, enforceable by these plaintiffs, to a desegregation of the teachers and administrative personnel unless such be a necessary or desirable factor in the desegregation of students. Such a move at this time would be harmful to the general relief originally sought by the plaintiffs and should not now be ordered.

The plaintiffs here are pupils in the public school system of Mobile County. The constitutional right which plaintiffs are entitled to have vindicated is the right not to be discriminated against in the school system because of their race or color. Unless there be shown that the assignment of teachers and other personnel without regard to race is a necessary or indispensable factor in the vindication of plaintiffs' rights, they are not entitled to this relief.

Dated this the 31st day of March 1965.

* * * * *

DECREE

This cause having come on to be heard on February 26 and continued to March 5, 1965, on plaintiffs' Motion for Further Relief and on defendants' answer thereto; oral testimony, answers to interrogatories, exhibits and an affidavit having been considered, and the Court having heard and considered arguments of counsel; and Findings of Fact and Conclusions of Law having been made by the Court;

It is, therefore, ORDERED, ADJUDGED and DECREED as follows:

1. The provision in the procedure for requesting transfers in the Plan that requires the return of the completed

form by the requesting parents, in person, is stricken, and said forms may be returned to the School Board offices by United States mail or any other convenient method.

2. Those criteria for transfer in the Plan designated (i), (l), (m), and (n) are improper criteria and hereby stricken from the Plan.

3. The defendant Board is directed to give such additional notice, through ordinary school channels, to school patrons of the terms and time limitations of the Plan as will afford them a reasonable and conscious opportunity to apply for transfer or admission of pupils to any school they would be eligible to attend without regard to race. (See notice listed as Appendix A)

4. In all other respects the desegregation plan of the defendant Board is approved as a constitutional plan and the administration thereof as non-discriminatory.

5. In all other respects except as ordered hereinabove, the motion of plaintiffs is denied.

6. Jurisdiction of this cause is retained to enter such further orders and to take such other proceedings as may be meet and just in the premises.

Entered this 31st day of March, 1965.

APPENDIX A

Information to Parents

Following are the terms of the Desegregation Plan adopted by the School Board pursuant to Court order:

If your child is presently in attendance in the Mobile County Public School System and will be in the 2nd, 9th, 10th, 11th, or 12th grade next year and you wish him to attend a different school in September, 1965, for good reason, without regard to race, you may make application therefor on or before April 15, 1965 and such transfer request will be considered by the Board without regard to race.

Regulations require that a parent pick up a transfer request form in person and that both parents sign or the reason be stated why both parents cannot sign. The completed form may be returned in person on or before April 15, 1965, or mailed back to the Board. If mailed, it must be postmarked prior to midnight, April 15, 1965, to be considered.

If your child is to enter the 1st grade of the Mobile County Schools for the term 1965-66, he must be pre-registered on Thursday, April 22nd, at either of two schools, depending upon your preference. He has the right to enroll in the school serving the attendance area in which you reside or, at your option, you may enroll him in the nearest school formerly serving your race. This is your choice.

If your child is a newcomer to the System or if you have moved from one attendance area to another and your child

is in the 2nd, 9th, 10th, 11th, or 12th grades, you have the same option for your child as if he were a first grader.

For the year 1966-67 two more grades will be added to the grades above set out; being the 3rd and 8th grades. Additional grades will be added year by year in accordance with the Plan.

Court of Appeals Opinion of August 16, 1966

Before TUTTLE, Chief Judge, THORNBERRY, Circuit Judge, and LYNNE, District Judge.

TUTTLE, Chief Judge:

This is the fourth appearance of this case before this court. This present appeal, coming as it does from an order of the trial court entered nearly eighteen months ago, on March 31, 1965, points up, among other things, the utter impracticability of a continued exercise by the courts of the responsibility for supervising the manner in which segregated school systems break out of the policy of complete segregation into gradual steps of compliance and towards complete compliance with the constitutional requirements of Brown v. Board of Education of Topeka, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873, 38 A.L.R.2d 1180. One of the reasons for the impracticability of this method of overseeing the transitional stages of operations of the school boards involved is that, under the Supreme Court's "deliberate speed" provisions, it has been the duty of the appellate courts to interpret and reinterpret this language as time has grown apace, it now being the twelfth school year since the Supreme Court's decision. Another is that appellate court requirements have grown more exacting as time has passed, and during the last eighteen months pronouncements of this court have interpreted the Supreme Court's interim decisions as requiring considerably greater measures of desegregation. Thus a decision by a trial court

eighteen months ago is not likely to reflect the current law on the subject.[1]

In 1963, the Mobile County schools, both within the city of Mobile and outside the city limits, were completely segregated according to race. In March 1963, the plaintiffs filed this suit to require compliance by the Mobile County School Commissioners with the requirements of Brown v. Board of Education of Topeka. The plaintiffs requested a temporary injunction in order to require a start in desegregating the schools in the fall of 1963. The trial court, after a hearing in May, neither granted nor denied the motion, but granted time for the filing of written briefs. Appellants treated this as an order "denying" an injunction. Cf. United States v. Lynd, 5th Cir., 1962, 301 F.2d 818, and appealed. We held this temporary delay was not an abuse of discretion by the trial court, but stated: "The matter of the grant or denial of the motion for preliminary injunction, should, as in every case, be promptly determined." Davis v. Board of School Commissioners of Mobile County, 5th Cir., 1963, 318 F.2d 63, 64. We also said: "[T]his court must require prompt and reasonable starts, even displacing the District Court discretion, where local control is not desired, *or is abdicated by failure to promptly act.*" (Empha-

[1] Lest this concept of changing requirements be criticized, we must call attention to the fact that the delaying of full vindication of a person's constitutional rights as was done in the School Desegregation Cases is itself a novel concept, requiring constant reappraisal of the degree of compliance by the school systems. It must also be borne in mind that this school board ignored for nine years the requirement clearly stated in Brown that the School authorities have the primary responsibility for solving this constitutional problem.

sis added.) id. p. 64. This was the first appearance of the case in this court.

On remand, the District Court still declined to grant an injunction and set the case for trial in November, thus permitting the tenth year to pass without any compliance with the constitutional requirements. The order of denial was an appealable order. It was appealed, and a motion for an injunction pending appeal was filed and heard by this court.

On July 9, 1963, this court granted appellant's request for injunction pending appeal, requiring a measure of desegregation to begin in at least one grade for the 1963-64 school year. Davis v. Board of School Commissioners of Mobile County, 5th Cir., 322 F.2d 356. This was the second appearance of the case here.

Upon the approval by the trial court of an initial plan, appellants again appealed to this court, contending that the rate of desegregation of the grades fell short of the current requirements of the decisions by the Supreme Court and this court, and that there had not been a complete abolition of dual zones for white and Negro children. This court reversed the District Court's order approving the plan. We prescribed definite minimum standards and shortened the time eventually desegregating the several grades of the school. Included in the opinion of this court was the requirement that dual school zones, areas, or districts be abolished. By incorporating the language of the opinion in Armstrong v. Board of Education of the City of Birmingham, 5th Cir., 333 F.2d 47, decided the same day, this court said: "The dual or bi-racial school attendance system, that is, any separate attendance areas, districts or zones, shall be abolished as to each grade to which the plan is applied

and at the time of the application thereof to such grades, and thereafter to additional grades as the plan progresses. * * * The plan shall apply to the admission of new pupils coming into the school system for the first time." Id. at 51. Davis v. Board of School Commissioners of Mobile County, 5th Cir., 1964, 333 F.2d 53. This was the third appearance of this case here.

After the mandate from the 1964 decision became the order of the District Court, that court again approved a plan of desegregating the Mobile County schools. Its order approving the Board's plan is now the subject of this fourth appeal. This plan embodies the following principal provisions:

(1) All existing school assignments shall continue without change except when transfers are authorized by the Assistant Superintendent in charge of pupil personnel under the provisions of the plan. (This means that all Negro and white children who had entered Negro and white schools respectively would continue to attend those schools unless transferred.)

(2) Transfers as to the desegregated grades could be applied for between April 1 and April 15 of each year for the next succeeding year. As originally written the transfers were subject to the requirements of the Alabama Pupil Placement Act, having many subjective tests. It is apparent that during subsequent years these tests were not, in fact, resorted to, but transfers were granted or denied largely upon other factors, not announced publicly and not fully specified in this record other than the general ground of the lack of space

for the student seeking transfer in the school to which transfer was requested.

(3) New student assignments. New students applying for admission to the first grade or pupils registering for the first time in other grades to which the plan has become applicable "may apply for attendance at the school in the district of their residence, or the nearest school *formerly attended exclusively by their race* at their option."

(4) All faculties of the schools of Mobile County are assigned according to race.

The school population of the Mobile County School System for the year 1964-65 was approximately 75,000 pupils, and for the succeeding year some 79,000. 39% of the school population was Negro and 61% white. Substantially all of the school's buildings were crowded in 1963-64, but a program of building new schools was under way. The record does not disclose the present availability of seats in any particular school. The school system incorporated some 90 different school buildings at the time of the promulgation of this plan. Information supplied pending the appeal indicates that of the approximately 31,000 Negro students, 39 were attending class with white students during 1965-66.

In order to understand fully the working of the plan, it must be borne in mind, as disclosed upon the trial of the case, that a new map of "school areas" has been prepared by the Board of Education. These school areas are readily distinguishable as "white" and "Negro," although, in each of the areas, there is a sprinkling of persons of the opposite

race. The trial court found as a fact, that the area boundaries were not drawn with racial characteristics in mind for the purpose of maintaining a pattern of racial segregation in the area schools.[1a] However, the school superintendent testified (as was obvious to any who studied neighborhood patterns) that it was "generally true that the actual make-up of the school district [sometimes called "area"] tends to conform with the race of the school within that district." It must also be borne in mind that the junior high schools and senior high schools have operated on the "feeder" system, and it is demonstrated on the record that allocation of students to the junior high schools and senior high schools follow the racial pattern because only Negro elementary schools are feeders to the Negro junior high schools, and the latter are the only feeders to the Negro senior high schools. In other words, no Negro elementary school prepared students for a junior high school that was not entirely Negro, and no white elementary school prepared students for a junior high school that was not almost entirely white.[2]

The plan was to have application in the school year 1963-64 to the twelfth grade in the city of Mobile only, in the school year 1964-65 it was to have application to the eleventh and twelfth grades in all schools in Mobile County and

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[1a] We do not here pass on the correctness of this determination nor determine the legal effect that might result if de facto segregation were to continue by reason of the setting up of school districts even without any improper motive.

[2] The Board does not now class schools as white or Negro. However, the use of the designation is meant to convey the fact that the schools of Mobile are still either entirely Negro or almost entirely white.

to the first and tenth grades in the City of Mobile schools. In 1965-66 it was to have application to grades one, two, nine, ten, eleven and twelve of all schools of Mobile County. In 1966-67, grades three and eight were to be added, in 1967-68, grades four and seven were to be added, in 1968-69 grade five was to be added, and in 1969-70 it became applicable to grade six.

Further factual material that must be noted is that, as found by the District Court, "A larger variety of special courses is offered at those schools attended predominantly by white pupils."[3] The Board has no policy of permitting a Negro student of a grade not yet desegregated to transfer to a white school in order to take a particular course of study.

Essentially, it can be said that this plan, operating in a system in which space is tight, and where all students are "frozen" into the segregated pattern of attendance unless transfers are approved, provides little opportunity to break up the heretofore open identification of schools as white and Negro. Recognizing, as we must, the binding effect of

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[3] A larger variety of special courses is offered at those schools attended predominantly by white pupils, although in many instances the number of schools offering a particular course is only one more in the case of white pupils. There are about 50% more white pupils in the system than Negro pupils, making it reasonable that more schools attended predominantly by white pupils would offer a particular special subject. Many factors enter into a determination of courses offered in a particular school, and the course offerings vary from school to school without necessary regard to the race of the pupils. Facilities, pupil interest, location, and socio-economic factors all affect course offerings. There is no evidence that any application for transfer for the current year was predicated on a desire for a special course not offered by the school the pupil had been attending. The Assistant Superintendent in charge of pupil personnel could not recall a single such request.

the pronouncement in Brown v. Board of Education of Topeka, 347 U.S. 483, 495, 74 S. Ct. 686, 692, 98 L. Ed. 873, 38 A.L.R.2d 1180, that "[s]eparate educational facilities are inherently unequal," we conclude that the Mobile plan falls far short of the requirements of the law in several respects. Principal among these is the fact that even as to those grades which, under the plan, have actually become "desegregated" there is no true substance in the alleged desegregation. Less than two-tenths of one percent of the Negro children in the system are attending white schools. Another defect is in the length of time that the plan would require to come to a final fruition; another is the option given to white students living within the "area" or "district" of a given school to transfer to another district or area to attend a white school there, without the granting of a similar option to a Negro child residing within the area of a Negro school to transfer to a white school outside the area; a further significant defect is the lack of provision for a Negro child to attend a school offering particular subjects if such subjects are taught only in white schools; and finally, there is the failure of the plan to start desegregation of the faculties of the schools.

Both in the testimony and in the briefs, much is said by the appellees about the virtues of "neighborhood schools." Of course, in the brief of the Board of Education, the word "neighborhood" doesn't mean what it usually means. When spoken of as a means to require Negro children to continue to attend a Negro school in the vicinity of their homes, it is spoken of as a "neighborhood" school plan. When the plan permits a white child to leave his Negro "neighborhood" to attend a white school in another "neighborhood" it becomes apparent that the "neighborhood" is something

else again. As every member of this court knows, there are neighborhoods in the South and in every city of the South which contain both Negro and white people. So far as has come to the attention of this court, no Board of Education has yet suggested that *every* child be required to attend his "neighborhood school" if the neighborhood school is a Negro school. Every board of education has claimed the right to assign every white child to a school other than the neighborhood school under such circumstances. And yet, when it is suggested that Negro children in Negro neighborhoods be permitted to break out of the segregated pattern of their own race in order to avoid the "inherently unequal" education of "separate educational facilities," the answer too often is that the children should attend their "neighborhood school."

So, too, there is a hollow sound to the superficially appealing statement that school areas are designed by observing safety factors, such as highways, railroads, streams, etc. No matter how many such barriers there may be, none of them is so grave as to prevent the white child whose "area" school is Negro from crossing the barrier and enrolling in the nearest white school even though it be several intervening "areas" away. This court, in a number of decisions, notably Singleton v. Jackson Municipal Separate School District, 5th Cir., 355 F.2d 865, and Price v. Denison Independent School District, Board of Education, 5th Cir., 348 F.2d 1010, has called attention to the significant fact that the United States Congress, in passing the Civil Rights Act of 1964, declared a strong legislative policy against racial discrimination in public education.[4] The

[4] Act of July 2, 1964, Public Law 88-352, Title IV, §§ 401-410, 78 Stat. 246-249, 42 U.S.C.A. §§ 2000c to 2000c-9.

operative section of the statute expressly prohibits the exclusion of any person in the United States from participation in being denied the benefits of, or being subjected to discrimination under, any program or activity receiving federal financial assistance.[5]

We have also called attention to the publication by the Department of Health, Education and Welfare of a "General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools."[6] We now call attention to the fact that a revised statement of policies has been issued by the Department as of March 1966.

In Singleton v. Jackson Municipal Separate School District, 5th Cir., 348 F.2d 729, this court said:

> "We attach great weight to the standards established by the Office of Education. The judiciary has of course functions and duties distinct from those of the executive department, but in carrying out a national policy the three departments of government are united by a common objective. There should be a close correlation, therefore, between the judiciary's standards in enforcing the national policy requiring desegregation of public schools and the executive department's standards in administering this policy. Absent legal questions, the United States Office of Education is better qualified

[5] 42 U.S.C.A. § 2000d provides as follows:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

[6] 45a C.F.R. Section 80(c), December 4, 1964, Pursuant to Section 602 of the Act, 42 U.S.C.A. Section 2000d-1.

than the courts and is the more appropriate federal body to weigh administrative difficulties inherent in school desegregation plans. If in some district courts judicial guides for approval of a school desegregation plan are more acceptable to the community or substantially less burdensome than H.E.W. guides, school boards may turn to the federal courts as a means of circumventing the H.E.W. requirements for financial aid. Instead of a uniform policy relatively easy to administer, both the courts and the Office of Education would have to struggle with individual school systems on ad hoc basis. If judicial standards are lower than H.E.W. standards, recalcitrant school boards in effect will receive a premium for recalcitrance; the more the intransigence, the bigger the bonus. * * *

"If Selma, Alabama, can commence with desegregation of four grades for 1965-1966, Jackson, Mississippi, can at least catch up. And indeed in all but the most exceptional cases, all school districts commencing desegregation in fall 1965 should be expected to do as well."

After having made this pronouncement, this court granted an injunction pending appeal and directed the Board of Education of the City of Jackson, Mississippi "to submit promptly a plan of desegregation extending to at least 4 grades for the year 1965-1966." With respect to this, the court then said: "As to details of the plan, *the Board should be guided by the standards and policies announced by the United States Office of Education in establishing standards for compliance with the requirement of Title VI of the*

Civil Rights Act of 1964." In Price v. Denison Independent School District Board of Education, 5th Cir., 348 F.2d 1010, this court said: "In Singleton v. Jackson Municipal Separate School Dist., • • • we accorded these minimum standards a high place in our future handling of school cases *totally without regard to whether a school district was seeking (or desired) Federal grants in aid.*" (Emphasis added) 348 F.2d 1010, 1013. Then, in the later case of Singleton v. Jackson Municipal Separate School District, 5 Cir., 355 F.2d 865, we restated the same principle of attaching great weight to the standards established by the Office of Education. We said: "HEW's statement of April, 1965 establishes only *minimum* standards of general application. In certain school districts and in certain respects, HEW's standards may be too low to meet the requirements established by the Supreme Court and by this Court; *we doubt that they would ever be too high.*" (Emphasis added.) 355 F.2d 865, 869.

Then, dealing with the specific provisions of the Jackson plan, this court said: "The school children in still-segregated grades in Negro schools are there by assignment based on their race. This assignment was unconstitutional. They have an absolute right, as individuals, to transfer to schools from which they were excluded because of their race.

"This has been the law since Brown v. Board of Education [of Topeka], 1954, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 [38 A.L.R.2d 1180]. Misunderstanding of this principle is perhaps due to the popularity of an oversimplified dictum that the constitution 'does not require integration'

[Briggs v. Elliott, E.D.S.C., 1955, 132 F. Supp. 776, 777]. But there should be no misunderstanding now as to the right of any child in a segregated class to transfer to a formerly all 'white' class, regardless of the slow pace of systematic desegregation by classes." Then pointing to the case of Rogers v. Paul, 382 U.S. 198, 86 S. Ct. 358, 15 L. Ed.2d 265, the opinion showed that, as required by that decision of the Supreme Court, it will hereafter be required that, where assignments of pupils were on a racial basis, they must now be permitted to attend the school from which they were originally excluded because of race. Thus, a Negro child living in area "A" which was predominantly white who was assigned to a Negro school in area "B", and who is still in attendance at the Negro school by reason of continuing attendance where originally assigned, is constitutionally entitled to an immediate transfer to the school from which he was denied admission, but which he would have been entitled to attend if of the other race. We find this to be clearly the holding of the Supreme Court in Rogers v. Paul.

Not only did this court spell out this requirement in the *Singleton* case, but during the summer of 1965, upon motion made on behalf of Negro plaintiffs, we entered seven per curiam orders in other cases remanding to the District Court "for further consideration in the light of Singleton v. Jackson Municipal Separate School District * * *." 349 F.2d 1020, 1022.

Thus, for many a year, it has been apparent to all concerned that the requirements of Singleton and Denison were the minimum standards to apply.

Thus it is, that regardless of the number of grades which, beginning next fall, are under the plan of desegregation,

the appellee Board must grant to any child whose original attendance at his present school was dictated by the policy of segregating children by race (as was done uniformly prior to September, 1963), the right, at his request, to attend the school which he would have been permitted to attend but for such racial policy.

All other pupils, that is, those who have entered their present schools without reference to racial attendance policies, were given the option of attending the school of their "area" (unmistakably identifiable as either a Negro or white "area") or the nearest school, outside the area, *formerly predominantly of their race.* Since it is perfectly obvious that this was a choice which permitted white students in a Negro "area" to transfer to the nearest white school, which privilege was not granted to entering Negro students, this is a plain violation of one oft-repeated requirement that dual school zones must be abolished. We conclude therefore that all of such Negro students who have entered under this policy must be accorded a similar choice. That is, they must be given the opportunity of remaining in the Negro school of their area or transferring to the nearest white school. Then, if any students who hereafter enter the system are given the blanket option of choosing the nearest white school rather than the Negro school of the area in which they reside, as is now the plan, this option must be afforded to all, Negro as well as white. Otherwise, this device has the effect of perpetuating the separation of pupils into the Negro and white schools. Such separation of classes by race is the thing that is condemned in Brown v. Board of Education of Topeka. Its perpetuation cannot be condoned on the theory that the Negro child

is given the privilege of transferring out of his area into another Negro school and the white child is given the right to transfer out of his area into a white school.

If the optional transfers we have here prescribed should overcrowd the white schools, then preference must be given to the pupil living nearest the school. See Gaines v. Doughtery County Board of Education, 5th Cir., 329 F.2d 823, 825.

Furthermore, in light of the specific requirements announced by the Supreme Court in Rogers v. Paul, supra, every consideration must be given by the Board to make possible the transfer of any Negro pupil to another school which provides a course of instruction which he desires to take, and which is not included in the curriculum of the school to which the "area" assignment practice places him.

Another panel of this court is considering appeals in eight other school desegregation cases. In all of these, the court has asked for briefs touching on the extent to which the courts could, and, if they can, should, give weight to, or rely on, H.E.W. guidelines and policies in cases now before the court.[1] Because this case was then pending, we also called on counsel to respond to these questions in this case.

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[1] These questions, submitted to counsel were:

(a) To what extent, consistent with judicial prerogatives and obligations, statutory and constitutional, is it permissible and desirable for a federal court (trial or appellate) to give weight to or to rely on H.E.W. guidelines and policies in cases before the court?

(b) If permissible and desirable, what practical means and methods do you suggest that federal courts (trial and appellate) should follow in making H.E.W. guidelines and policies judicially effective?

Court of Appeals Opinion of August 16, 1966

All of the cases referred to were argued orally and submitted to the court on May 24th. The present appeal was submitted to a different panel earlier. In none of the other cases is there involved a large metropolitan school district as is the case here. We are reluctant to wait any longer to permit the court fully to resolve all of the questions raised in the other appeals before announcing our conclusion as to minimum changes that must be put into effect by the appellee Board of School Commissioners from Mobile County for the next school year. We conclude that the requirements we have outlined are absolutely essential in order for this court's judgments to be consistent as we approach the twelfth year following the Supreme Court's decision in Brown v. Board of Education of Topeka.

In addition, two further modifications of the Mobile plan must be made. The first is that the time must be shortened in such manner that all grades will be fully desegregated by the beginning of school in the fall of 1967, the target date announced in the H.E.W. regulations. There is nothing on the record before us that demonstrates the need for any additional time under the formula announced in the *Brown* decision.

Second, the plan must be modified in order that there be an end to the present policy of hiring and assigning teachers according to race by the time the last of the schools are fully desegregated for the school year 1967-68.

As has already been stated, the actual supervision by the courts, especially an appellate court, of the steps by which the constitutional rights of the plaintiffs and their class are ultimately vindicated is highly unsatisfactory. The degree to which the appellee accepts the legal prin-

ciples announced by the courts as the guiding principles upon which it undertakes anew the task of operating a constitutionally valid school system, the simpler and more professionably (*sic*) acceptable to all will it be. As the Su-professionably (sic) acceptable to all will it be. As the Supreme Court and this court develop and announce additional legal principles affecting the "deliberate speed" principle, the Board should be guided accordingly. If it fails to do so, the trial court, under the doctrine of stare decisis, will be able to solve such additional questions as may arise in the application of the legal principles involved.

In order that the trial court may promptly enter an order making, or approving, modifications in the plan to conform to what is said here, the order of the trial court is reversed and the case is remanded.

The judgment shall issue forthwith.

LYNNE, District Judge, having recused himself, took no part in the hearing, consideration, or decision of this case.

District Court Order and Opinion of October 13, 1967

THOMAS, District Judge.

Order

This cause having come on to be heard on July 18-20, 1967, and July 24-28, 1967, and August 18, 1967, on Plaintiff's motion for further relief as amended, on Plaintiff-Intervenor's motion for supplemental relief, and on Defendant's answers thereto; oral testimony, testimony by depositions, answers to interrogatories, affidavits, and exhibits having been considered, and the Court having received and considered the written briefs of counsel and having heard and considered the arguments of counsel; and the Court being of the opinion that an immediate interim order is necessary with regard to certain action to be taken immediately;

It is, therefore, ORDERED as follows:

1. That those students whose places of residence have been changed from one elementary attendance area to another as a result of a change or alteration in attendance area boundary lines between elementary school attendance areas, during the 1966-67 school year, namely those changes in attendance area boundary lines set out in paragraph 2 hereof, should immediately be afforded an opportunity to transfer to the school serving the attendance area in which their residence now lies, or any other school afforded to them by the desegregation plan.

2. The attendance area boundary line changes concerned are:

(a) The boundary line between the Whistler attendance area and the Thomas attendance area.

(b) The boundary line between the Bienville attendance area and the Carver attendance area.

(c) The boundary line between the Barney attendance area and the Bienville attendance area.

(d) The boundary line between the Barney attendance area and the Ellicott attendance area.

(e) The boundary line between the Old Shell Road attendance area and the Fonvielle attendance area.

(f) The boundary line between the Warren attendance area and the Crichton attendance area.

3. In order to accomplish the above, a special transfer period shall be held on Monday through Thursday, August 28-31, 1967, during which time applications for these transfers may be made. Notice of this transfer period, approved by the Court, shall be given by publication of a display ad notice for three consecutive days immediately prior to the transfer period. Transfer request forms shall be available at the school board offices and at Thomas Elementary School and Ellicott Elementary School, during the transfer request period, and shall be picked up by parents or guardians, or the student involved if sixteen years old or older, in person. Any other appropriate procedures necessary to administration of the special transfer period shall be adopted and carried out.

4. In all other respects, except as ordered hereinabove, the motions of Plaintiff and Plaintiff-Intervenor remain

under submission, and jurisdiction of this cause is retained to enter such further orders and to take such other proceedings as may be meet and just in the premises.

Entered this 24th day of August, 1967.

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Notice

To All School Patrons:

Pursuant to the order of the United States District Court for the Southern District of Alabama, a special transfer request period is hereby established for Monday, Tuesday, Wednesday and Thursday, August 28, 29, 30, and 31, 1967, for parents or guardians of pupils in any of the categories set out below. Such parents or guardians must pick up the transfer application form at the school board office, Barton Academy Building, 504 Government Street, Mobile, Alabama, or Thomas Elementary School, 743 Alvarez Avenue, Prichard, Alabama, or Ellicott Elementary School, 1250 Craft Highway, Chickasaw, Alabama, in person, beginning Monday, August 28 at 8:00 a.m., and must return the completed form to said school board offices by mail or otherwise so that it will be received on or before 5:00 p.m., Thursday, August 31, 1967. Applications received after that time will not be considered.

Students in junior or senior high school who are sixteen years old or older may pick up their own transfer application form at any of the above places, but said form must be signed by their parent or guardian.

Notice of action taken on the transfer request will be mailed on or before Friday, September 1, 1967. If a trans-

fer request is denied, the parent or guardian of the pupil affected may appeal to the Board in writing prior to September 9, 1967. While such appeal is pending, the pupil concerned shall begin attendance at the school he would normally be attending but for the pending transfer request.

This special transfer request period is occasioned by changes in the boundary lines of certain school attendance areas. Pupils eligible to transfer during this special transfer period are as follows:

1. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request transfers to the Whistler School, or to the nearest formerly white school to their residence outside the Whistler attendance area, or to the nearest formerly Negro school to their residence outside the Whistler attendance area:

> Area bound on the West by the GM&O Railroad, South by I-10 Highway, East by Gum Tree Branch, and on the North by Atmore Avenue North and Fall Avenue.

2. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request transfers to the Thomas School, or to the nearest formerly white school to their residence outside the Thomas attendance area, or to the nearest formerly Negro school to their residence outside the Thomas attendance area:

> Area bound on the West by Main Street, South by Elba Avenue, East by GM&O Railroad, and North by Eight Mile Creek.

3. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request

transfers to the Bienville School, or to the nearest formerly white school to their residence outside the Bienville attendance area, or to the nearest formerly Negro school to their residence outside the Bienville attendance area:

Area bound on the Southwest by Whistler Avenue, East by Brock Avenue, and North by Kirby and Cottonwood Street.

Area bound on the West by Whistler Avenue, South by Meaher Avenue, East by Craft Highway, and North by West Butler Street, Wilson Avenue and Peterson.

4. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request transfers to the Ellicott School, or to the nearest formerly white school to their residence outside the Ellicott attendance area, or to the nearest formerly Negro school to their residence outside the Ellicott attendance area:

Area which includes only Hendricks and Taft Streets in Prichard.

5. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request transfers to the Fonvielle School, or to the nearest formerly white school to their residence outside the Fonvielle attendance area, or to the nearest formerly Negro school to their residence outside the Fonvielle attendance area:

Area bound on the West by Lourdes Circle, South by Three Mile Creek, East by Rondo Road, and on the North by Pleasant Avenue.

6. All those students in Grades 1 through 6, residing within the following boundaries shall be eligible to request transfers to the Crichton School, or to the nearest formerly white school to their residence outside the Crichton attendance area, or to the nearest formerly Negro school to their residence outside the Crichton attendance area:

> Area bound on the West by Martin Street, South by GM&O Railroad, East by Mobile Street, and on the North by LeCren Street, Bay Shore Avenue and Springhill Avenue.

7. Parents or guardians of pupils in junior or senior high school, who reside in any of the above areas, are likewise eligible to request transfers. Those pupils in junior high school are eligible to transfer from the school they would normally attend to the nearest formerly white junior high school or the nearest formerly Negro junior high school to their residence. Those students in said areas who are in senior high school are eligible to transfer from the senior high school they would normally attend to the nearest formerly white senior high school or the nearest formerly Negro senior high school to their residence.

The employees of the School Board at any of the three above locations where applications may be picked up, will, upon request, furnish information to assist in preparing and filing the transfer application. Parents or guardians are invited to contact the Office of Pupil Personnel at Barton Academy during this transfer request period, in the event they have any questions which cannot be answered by persons handing out the applications.

Only those persons residing within one of the above seven areas are eligible to apply for transfer during this special transfer period. If you do not reside within one of the above areas, do not apply for such transfer.

BOARD OF SCHOOL COMMISSIONERS
OF MOBILE COUNTY

* * * * *

FINDINGS OF FACT

1. The Mobile Public School System is presently operating under an amended desegregation plan submitted pursuant to an order of this Court, and in turn a mandate of the Court of Appeals for the Fifth Circuit. The plan is dated October 18, 1966, and was filed in this Court on October 19, 1966. The Court finds that this plan, on its face, substantially complies with the Mandate of the Court of Appeals, and the Order of this Court.

2. The School System is a consolidated system in that it encompasses all of the public schools in Mobile County, both city and rural. The city portion is made up of the cities of Mobile, Prichard and Chickasaw, and the rural portion the remainder of Mobile County.

(a) The city portion of the system is divided into geographically designed attendance areas with specific boundary lines. The rural portion of the system is made up of considerably larger general areas, without sharply defined geographic attendance area boundary lines.

(b) For purposes of administration of the Plan, the two portions of the system, city and rural, are treated identically except for one basic difference, and this concerns the option provisions of the plan. Under the option provisions of the plan, students in the rural portion of the system have the right of attending either of two schools, at the option of their parent or guardian; while in the city portion of the system the option is to attend either of three schools, at the option of parent or guardian.

(c) The difference arises out of the following circumstances: widely scattered population in the rural portion; comparatively fewer schools in the rural portion, considerably larger general areas to be served by each school in the rural portion; and the existence of a bus transportation system in the rural portion of the system, operated by defendants.

3. Reduced to its basic terms the desegregation plan under which the defendant board is operating the Mobile County schools is as follows:

In the city portion of the system:

(a) Every student upon initial enrollment in the system has the absolute right to enroll in and attend the school serving his attendance area, or at his option, the absolute right to enroll in and attend the nearest formerly white school outside his attendance area, or the nearest formerly Negro school outside his attendance area. This absolute right is available to every student initially enrolling in the first grade, and at any other grade level.

(b) Every student, upon progressing from elementary school to junior high school has the absolute right to enroll in and attend the junior high school serving his attendance area, or at his option, the absolute right to enroll in and attend the nearest formerly white junior high school outside his attendance area or the nearest formerly Negro junior high school outside his attendance area.

(c) Every student, upon progressing from junior high school to senior high school has the absolute right to enroll in and attend the senior high school serving his attendance area, or at his option, the absolute right to enroll in and attend the nearest formerly white senior high school outside his attendance area or the nearest formerly Negro high school outside his attendance area.

(d) Every student, upon moving his residence from one attendance area to another, has the absolute right to enroll in and attend the school in his new attendance area, or at his option, the absolute right to enroll in and attend the nearest formerly white school outside his attendance area or the nearest formerly Negro school outside his attendance area.

(e) As to the rural portion of the system: The options are the same, with the exception that instead of a three school option, each student has the right to attend, at his option, the formerly white school or the formerly Negro school nearest to his residence, provided that the school is within walking distance, or that school bus transportation is available to the school, or that the student has private transportation to the school.

(f) While the plan limits options to physical space available, the Court finds as a fact that no student to date has been denied the exercise of an option due to physical space limitations. If the occasion arises, the stated policy of the defendant board is to provide special consideration for any student who might be otherwise denied the exercise of his option for this reason.

(g) It is the stated policy of the defendant board to arrange its transportation routes to provide transportation for every student in the rural portion of the system to either of the two schools selected in the exercise of the options provided under the plan. No student has been denied the opportunity of attending a school available to him under the provisions of the plan, for lack of public school bus transportation.

(h) In every instance, the right of option referred to is a right to be exercised by parents or guardians for and on behalf of their children. In every instance where reference is had to the *nearest* school, the nearness referred to is based upon proximity to the residence of parent or guardian.

(i) The options provided by the plan are applied in the same manner regardless of whether enrollment takes place at the beginning of school, later on during the course of the school year, during pre-registration of prospective first graders, or upon exercise of the grade level option in advance of promotion from elementary school to junior high school and junior high school to senior high school.

4. Students already in the system, in attendance at a particular school in the system, continue at that school from

year to year until (a) they reach the next option level; or (b) their parents or guardians move their residence to a different attendance area and exercise the option to attend the optional school for that area; or (c) a transfer is requested and granted.

5. The defendant board makes no initial assignments of pupils, but permits the free exercise of options provided by the plan without regard to the present racial make-up of the school or to the race of the pupil. Initial enrollment involves no transfer nor other special action of the board; likewise the exercise of the various options in the plan require no transfer or special action of the board.

For all students already in the system progressing from elementary school to junior high school and from junior high school to senior high school, a special form is provided, upon which the parent or guardian of the students state a choice of junior high schools, or senior high schools as the case may be, in exercising the options provided by the plan. It is mandatory that this form be completed and returned to school officials. With regard to all other options (first graders, newcomers in all other grades, and students who have moved from one attendance area to another) the students present themselves at the optional school of their choice and enroll.

6. In March 1967 approximately 14,300 students exercised grade level options upon moving from elementary school to junior high school and junior high school to senior high school for the 1967-68 school year. There were 6,615 first graders enrolled for the 1967-68 school year. Esti-

mates, based upon past experience, indicate that there will be some 4,000 to 5,000 newcomers to the school system at grade levels other than the first grade during the 1967-68 school year; and approximately 4,500 students who will move their residences from one attendance area to another during the 1967-68 school year. The Mobile Public School System has a total enrollment of slightly over 75,000 students. With reference to the 1967-68 school year, based on past experience, more than one-third of this enrollment has, or will, during the course of the year, exercise an option as provided under the plan.

7. Dual attendance areas based upon race existed at one time in the system, but have been abolished and a single attendance area system established. A map setting out the boundaries of attendance areas as they existed upon the opening of school in September 1967 has been furnished to the Court, and forms a part of the record in this cause. The practice of freely granting transfers to those enrolled in a particular school because of residence in one of the old dual attendance areas, plus the basic option provisions of the plan, has tended to overcome the discrimination that once existed because of dual attendance areas.

8. The single geographic attendance areas as they presently exist are not racially devised but are arranged by giving due weight to proper factors, i.e., natural and man-made barriers; safety factors, such as railroads and thoroughfares; maximum use of facilities; transportation facilities and other like considerations. Each attendance area has a certain interrelation with every other attendance

area, and the drawing of any attendance area boundary line must take into account the factors enumerated about as well as the interrelation of that line with all other lines of the particular attendance area concerned, and its relationship with other attendance areas. A majority of the attendance areas have both races residing within them.

9. The organization of attendance areas based on the neighborhood school concept is a long-standing practice in the administration of the school system in Mobile County. It is founded on a sound educational basis and the defendant board is justified in its use.

10. The defendant board has historically permitted parents some flexibility in selecting a school. A rigid system that requires all children of an area, without exception, to attend a particular school fails to take into account that school patrons and pupils are individuals with choices, likes and dislikes. Such rigidity is a major handicap to proper educational processes. However, such flexibility must be consistent with good administrative practices which require a reasonable amount of specificity to permit adequate planning and give some basis of stability to the system.

11. There are presently 93 schools in the system with additional schools in planning and construction. Half-day sessions have been eliminated but thousands of students are in attendance at schools where the enrollment exceeds the normal capacity of the school. This overcrowding is distributed evenly on a proportionate basis among schools where the enrollment is entirely Negro, schools where the

enrollment is entirely white, and schools where the enrollment is bi-racial. Much of this over-capacity, which otherwise would be overcrowding, is accommodated by portable classrooms. The schools in the system have not been designated by race for several years, and are not now so designated, although certain records relating to the schools and to students are kept on a basis by which students are designated by race. This has been necessitated by the demands of desegregation litigation, including this cause.

12. Transfers are granted upon request, for cause, and sufficient cause includes a number of reasons concerning primarily the convenience and well-being of students. Transfers are also granted, as a matter of course, upon bona fide requests for transfer to obtain a particular course of study not available at the school where the student is in attendance, and upon the requests of students who are in attendance at a particular school based upon a racial assignment due to residence in a former dual zone. Transfer requests are required to be made on an official form procured from the School Board office by a parent or guardian in person, and must be signed by a parent or guardian. The forms may be returned to the school board office by hand or by mail. April 1 through April 15 of each year is designated as the transfer request period. All transfer requests are considered without regard to race and upon the basis of the reason assigned for the request and other proper factors such as availability of space, transportation considerations, and the basic advantage of maintaining the neighborhood school concept. Any parent or guardian may appeal to the Board of School Commissioners from a denial

of a transfer request in writing within ten days of the mailing of notice of action on the transfer request.

13. In the administration of the transfer provisions and option provisions of the plan, there is no evidence of any discrimination by virtue of race. The evidence supports equal application of the policies and provisions of the plan to both races and the Court so finds as a matter of fact.

14. No special tests are administered to pupils of either race requesting transfers. No transfers have been denied arbitrarily or unevenly as between the races. During the April 1-15, 1967 transfer period approximately 387 completed transfer requests were received and acted upon; of these 288 were approved and 99 were disapproved. Of 121 requests for transfer by Negro pupils to predominantly white schools, 112 were approved and 9 were disapproved; of these 96 were granted on the basis of residence in a former dual zone, 12 were granted on request to obtain a particular course, and 4 were for other reasons.

15. Notice of the transfer provisions of the plan is given by newspaper publication of a display advertisement type notice for three consecutive days immediately preceding the transfer period. This form of notice is adequate but the Court feels that it would better serve its purpose if published once a week for three consecutive weeks next preceding the transfer request period. The content of the notice published prior to the transfer period in April 1967 was not sufficient in that it omitted specific reference to transfers due to residence in a former dual attendance

area. The content and time of publication of the notice must be changed accordingly.

16. Notice of the grade level options set out in paragraphs 3(b) and 3(c) above is given to the students already in the system who are subject to the grade level option by a form hand delivered to such students for delivery to their parents, execution by them, and return to the schools. The forms were delivered on March 9, 1967 and required to be returned on March 10. The Court feels that this did not allow sufficient time, and must be corrected. Principals were instructed to see that all forms were returned, and it is stated on each form that it must be returned; a vast majority of the forms, approximately 14,300 were filled out and returned, however it is not clear that all were returned.

17. Notice of the basic options provided by the plan excepting the particular provisions with regard to grade level options, is given by newspaper advertisement in the form of a display notice published for three consecutive days during the month preceding the opening of school. Notice in this manner is adequate. The form of notice published prior to the opening of school in September 1967 was sufficient. The Court feels that the publishing of this notice should be changed to once a week for three consecutive weeks immediately prior to the opening of school in September.

18. In addition to the specific published notices, defendant has given further publicity to the transfer period and the option provisions of the plan by directing information concerning these things to all daily newspapers in Mobile

County and all radio and television stations in Mobile County, with the request that the information be disseminated as news items.

19. Transfer request forms and the grade level option forms have not contained a designation of the specific schools to which transfer could be requested or to which grade level option may be exercised. Similarly, teachers and other employees of the board involved in the registering of students for attendance in the system where the exercise of an option is involved, have not volunteered information as to the options available, in the absence of a request by parent or student for such information. The Court feels that parents should be thoroughly informed in this regard, and that such parents and students should be made aware in the notices mentioned in Paragraphs 15, 16, and 17 above, that such information will be made readily available upon request, and likewise the method of request should be made known.

20. The enrollment of students in the system, where options provided by the plan are involved, and the handling of the grade level option forms, is done by teachers and other employees of the defendant board. Efforts in the form of instructional meetings with school principals and in the form of written instructions were made to properly instruct these people with regard to the provisions of the plan involved in their duties in that regard. In some instances, with regard to some teachers and employees, these efforts were not sufficient to adequately instruct them. The Court finds that additional steps to inform and instruct such personnel must be taken in the future.

21. This Court has retained continual jurisdiction of this cause for further proceedings and to hear any complaints or charges of discriminatory application of the defendant board's plan. No complaints have been lodged or filed in this Court by any individual as to any discriminatory action of the board in the administration of the plan.

22. All services, facilities, activities and programs with regard to each particular school in the system, are available to every student in that school, without reference to race. This includes the use of all facilities of the school, such as rest-room facilities, lunchrooms, laboratory facilities, special facilities and equipment; all programs of the school, such as athletic teams, band and choral programs, clubs and student groups; and all services and activities such as counseling, honor societies, dances and other social activities; and all other services, facilities, activities and programs. All services, facilities, activities and programs are available, as between various schools, without reference to the race of the pupils attending the schools. No services, facilities, activities or programs have been changed, curtailed or limited due to the race of the students, or due to the fact that a school has a bi-racial student body. No special waiting period or other qualifying factors or circumstances have been attached as a qualification to participation due to the race of any pupil. All student extracurricular activities, over which the defendant board has control, are conducted on a desegregated basis, as are all parent-related activities. There are some activities over which the defendant board has no compelling control.

23. The defendant board has formulated a specific initial plan for beginning faculty integration and has made an actual start upon that plan. There are presently, assigned permanently for the 1967-68 school year, 12 Negro teachers teaching in schools where the enrollment is predominantly white and 3 white teachers teaching in schools where the enrollment is predominantly Negro. Defendant has made a conscientious effort to select teachers for assignment to schools of their opposite race who would be thoroughly qualified by way of background, experience, training and disposition and who would be likely to do well in the position, for the stated purpose of laying the foundation for additional faculty desegregation in the future.

All general faculty meetings, teacher institutes, new teacher orientation programs, in-service training programs, in-service contract classes with the University of South Alabama, faculty committees, and all other faculty activities and programs are carried out on an integrated basis. Special teaching positions, such as teachers for classes at the Sixth District Tuberculosis Hospital, homebound classes, and special classes, are handled on an integrated basis.

Defendant has adopted a stated policy of employing and assigning teachers without regard to race, but in most instances continues to assign teachers with regard to race. The Court finds that it is the purpose and intent of defendant board to continue steps toward ultimate total desegregation of faculty personnel. The Court further finds that the policies adopted, the efforts made and the stated intentions of the defendant board to this end are proper and sufficient in the prevailing circumstances.

24. All staff and staff activities are integrated. Prior to the filing of the current plan the maintenance of separate office facilities at separate locations for Negro and white staff personnel were discontinued and the offices were consolidated in one place. The top staff positions of superintendent of schools and associate and assistant superintendent are held by white persons. The positions of supervisor and other staff positions, including secretarial and clerical positions and nurses, are integrated. All staff activities, programs, and committees are handled on an integrated basis.

25. The defendant board has instituted two remedial programs intended specifically to apply to and raise the educational level of Negro students in the system. One of these is carried on with the approval and cooperation of the Office of Economic Opportunity. The other has received the commendation of the Office of Education of the Department of Health, Education and Welfare.

26. The defendant board has initiated and completed three school consolidations. In one of these, one bi-racial school was consolidated with another bi-racial school. In both of the other two consolidations, a school attended entirely by Negroes has been discontinued and the school, its student body, and its attendance area consolidated into a school or schools that were, before the consolidation, in one instance entirely white and in another predominantly white. Additional consolidations would be difficult for the present due to a general lack of sufficient classroom capacity as compared to enrollment. The Court finds that

the defendant board has exhibited an intent to proceed with the consolidation of schools, without regard to race, where feasible, desirable and sound from an educational standpoint in light of all surrounding circumstances.

27. The Court finds as a fact that Mobile County has both a shifting population and a growing population; that there is commercial encroachment into former residential areas; that there are highway construction projects in the urban areas displacing population; that there are several urban renewal and other similar projects that have or will both displace population, temporarily and permanently, as well as attract population; and that there are other changes in residential patterns taking place, including racial changes.

The defendant board is pursuing a policy of locating new schools with relation to known or anticipated areas of population concentration. Some school sites are acquired many years in advance, some are never used because population does not develop as anticipated. Some school construction projects are planned many years in advance, and some are changed on one or more occasions before construction is commenced. An effort is made to locate new school construction where it is needed. Since the beginning of this litigation the defendant board has pursued a policy of constructing, adding to, renovating and repairing its school facilities without reference to the race of the pupils concerned.

28. Furnishings, fixtures, equipment and facilities are allotted to all schools on an equal basis without reference

to the race of the pupils attending the school. All allotments of textbooks, supplies and funds for supplies are allocated on an equal basis without reference to the race of the pupils concerned. Courses of study are available to all schools on the same basis without reference to the race of the students attending the various schools. Many courses of study may be offered at one or more schools and not at others. These offerings are made without reference to the race of the pupils at the school and on the basis of requests of the principals of the schools. The Court finds as a matter of fact that facilities, equipment, furnishings, textbooks, materials, allocated funds, and courses of study are made available to all schools on the same basis, without regard to race.

During the 1967-68 school year twenty transfers were granted to pupils in order to take a particular course of study; of these 12 were granted to Negro pupils and 8 to white pupils.

29. A number of schools in the Mobile County Public School System have enrollments beyond the capacity of their permanent facilities. The defendant board has been building new schools at a rapid rate. The system is made up of schools of various ages; these schools therefore vary in appearance and quality of physical plant. The actual physical plants, as well as the furnishings, facilities, and equipment in those schools attended predominantly and entirely by Negro students are essentially equivalent to those attended predominantly and entirely by white students.

30. The proceedings in this cause have had wide publicity in Mobile County. Details of the plan, orders of the Court, and periods designated by the plan and the Court have been disseminated through numerous news stories in the local press. In addition, radio and television coverage of these details has been widespread.

31. In the past there have been occasions where a school has, within a period of one or more years, undergone a total change in the racial composition of its enrollment. The court finds that this has occurred on six occasions; four of these since the defendant has been under court order. None have occurred since the filing of the current desegregation plan. In each instance the change has been contemporaneous with a corresponding change in the racial composition of the general neighborhood and the attendance area surrounding the school.

The Court finds that none of these occurrences have resulted from nor been accompanied by bad faith upon the part of the defendant board, in light of all prevailing circumstances.

The Court recognizes that there could possibly be similar occurrences in the future, as a result of natural processes; the Court now states however for the benefit of the future, that it will not tolerate any such change as may result from arbitrary action as opposed to natural processes.

32. Based upon current figures there are 692 Negro pupils attending school in bi-racial schools, where the enrollment is predominantly white; at this time last year there were 181 students so situated. At the present time there

are 4 white students attending school in schools where the student body is predominantly Negro; at this time last year there were no white students so situated. At the present time there are in the system 33 bi-racial schools, or schools with bi-racial student bodies; at this time last year there were 15 schools so situated. There are presently 28 schools where the enrollment is entirely white, 32 schools where the enrollment is entirely Negro and 33 schools where the enrollment is bi-racial. Of the 33 bi-racial schools, 31 were formerly entirely white schools and 2 formerly entirely Negro schools. At the present time there are 29,031 students in the Mobile County Public School System attending bi-racial schools and receiving their education under integrated circumstances; at this time last year there were 15,650 students so situated.

Conclusions of Law

1. In order that a plan for the operation of schools meet constitutional standards, at least within this Circuit, it must reside within the four walls of *United States, et al. v. Jefferson County Board of Education, et al.* and companion cases, 372 F.2d 836. In that case are set forth detailed principles against which any plan must be measured. It prescribes no specific plan for application to all school districts but recognizes that "Freedom of Choice" or "Geographic Zoning" or indeed some hitherto non-categorized method may best serve the educational needs of an area. This Court, however, concludes that the same basic plan must be applied throughout any one system, since the administration of one type of plan in rural areas and another in city schools, with the students shifting between the two

frequently would be entirely too onerous and burdensome. The Mobile Plan, while differing in minor details as between rural and city schools is basically the same throughout the system. This is as it should be.

The Court of Appeals for this Circuit approves, as does this Court, of the selection by the particular board of any type of plan so long as such plan meets generally the basic elements in the *Jefferson County* case. Since the chosen vehicle for desegregation of schools in the cases consolidated with Jefferson County was the "Freedom of Choice" plan, the Court of Appeals made its measurement in the specific terms of "Freedom of Choice" plans and shaped its model decree in the terms of such plan. As generally agreed by all parties, and as is clear from the evidence adduced including the plan itself, the Mobile Plan is not a "Freedom of Choice" plan and the decree in the *Jefferson County* case is not applicable as such. But the Mobile Plan must meet the general tests prescribed in the opinion entered in that case. In fashioning conclusions of law in the instant case, this Court places the Mobile County plan alongside the pattern as set forth in Jefferson County and frames its decree in the terms of the method selected locally since this Court concludes as a matter of law that the Mobile County "Attendance Area—Option" plan is a constitutional method conforming in basic provisions to the principles in the *Jefferson County* case. It is not unlike the plan prescribed by the Court of Appeals in *Gaines et al.* v. *Dougherty County Bd. of Ed. et al.*, 334 F.2d 983. However, in certain areas it falls short or misses the mark and the decree to be entered pursuant to these conclusions of law is directed to a correction of those shortcomings. Reference

is made specifically to the sub-heads of the *Jefferson* opinion as these are set out beginning on page 890 of the reported case.

2. *Speed of Desegregation:* Since all grades in the Mobile System were reached by its plan in 1967, the plan meets standards as to speed.

3. *Mandatory Exercise of Grade Level Options:* There does not exist under the Mobile plan, nor has there existed for at least one year prior to the current term, any initial assignment of students by race. The three school option in the city portion of the system and two school option in rural areas, each including a school formerly white and formerly Negro, to which any student may present himself initially and enroll as a matter of right, avoids any semblance of assignment by race. Since all city attendance areas are non-racially devised; indeed being in most instances bi-racial; and comprise a system of single zones completely replacing the old dual zone system, race is not a factor in any initial enrollment and the plan's provisions in this respect are constitutional. The plan and regulations implementing it prescribe a mandatory choice with regard to the grade level options. The plan, to be constitutional, must make the exercise of the options mandatory, as to those parents or guardians whose children have reached a grade level option in moving from elementary to junior high and from junior high to senior high. The choice of optional schools by a student enrolling initially (including first graders) is already mandatory in that the presenting of the child to a particular optional school for enrollment is required and sufficient.

4. *Transportation:* The practice of the Board of transporting any student, who meets statutory requirements to be a transported student, to either optional school selected by him is proper. However, such provision is not adequately covered in the terms of the plan and this must be done. Notice of the availability of such transportation must be provided for and this is covered later in these conclusions under the subhead of "Notice."

5. *Notice:* The use of display advertisements to inform parents of the provisions of the plan as to options, initial enrollment and transfer rights; and the dissemination of this information through all public news media in the county; and the publication of maps showing the arrangement of attendance area lines and school locations have been carried out under the general supervision of this court and are sufficient except in the following particulars: (1) At any time that the boundary line of an attendance area is changed, those parents or guardians residing in the affected area shall be notified by letter, hand delivered or mailed, which letter shall specify the options which such parent or guardian has as to his children together with the method of exercising it. (2) The Board shall procure the publication *each year* prior to the opening of school of a map or maps showing arrangement of attendance areas in city schools and of rural schools; and the proposed bus routes based upon options theretofore exercised by students. (3) More attention must be given annually to insure that school personnel, including principals and teachers, are familiar with the option provisions of the plan, to the end that they may, with knowledge, assist parents in making

a conscious exercise of options available upon enrollment, transfer or when reaching a grade level option point. (4) All such notices must include the assurance that public transportation will be furnished to any pupil in the rural portion of the system properly exercising an option if he is thereby required to travel more than the statutory two miles. (5) Each such notice must contain an assurance that clarification and further information is available by telephone or personal conference at School Board offices.

This Court concludes that hand delivered notices to parents of those pupils who have reached a grade level option point is sufficient without the necessity of published notice, since this is the most effective means of giving notice where those to be notified are specifically identifiable. However, the notices heretofore used must be changed to provide the following: (1) All such forms, with option selected, must be returned and more adequate steps must be instituted by the Board to insure the mandatory exercise of the option provisions; (2) Such forms shall provide in a prominent place that further information may be obtained and questions answered in person or by telephone to School Board offices, listing the address and telephone number and extension where the parent may call; (3) Parents shall be afforded seven days within which to exercise the grade level option.

6. *Transfers:* The Board has acted properly as to granting transfers to correct racial assignments arising during the times when dual zones existed and to permit students to obtain particular subjects not offered at the school in which he is enrolled. The transfer provisions of

the plan and practices pursuant thereto are proper and constitutional except in the following particulars: (1) Notice of the transfer period shall, in addition to information contained in past display advertisements, contain in general terms the bases upon which transfers shall be granted and specific reference to correcting past racial assignments and subject matter transfers; (2) In addition to being available at the School Board office, transfer request forms shall be made available at the office of the principal of each senior high school in the system and the published notice of the transfer period shall so state. (3) Students in senior high school grades or who are 16 years old or older shall have the right to procure their own transfer request forms, and the published notice shall so state; (4) The notice to parents of action taken on transfer request shall be revised to show with more specificity the reasons for denial in those cases where the request is denied.

7. *Services, Facilities, Activities and Programs:* The services, facilities, activities and programs of the Middle County School System to the extent that the Board has power to control them, have been integrated and this Court is of the opinion that in this area the defendant board is acting with complete propriety.

8. *School Equalization:* The activities of the Board in school equalization is constitutional and proper. In closing the two small schools which had total Negro student bodies and consolidating these pupils into larger, new and more adequate schools, the Board has largely cured the deficiencies in this area. Two other small schools were also

closed with one school having a bi-racial student body and the other all white. Because of the magnitude of the building program in the Mobile County School System in recent years, the number of inadequate physical plants has almost disappeared. Many pupils are still housed in portable classrooms but these form a part of the schools to which they are attached and the Court finds them to be adequate as school rooms for a limited time.

The remedial programs being conducted with the cooperation of HEW and OEO (being the Title 1 Summer School Program and the teacher improvement program styled "Project Mobile") are adequate to upgrade student and teacher performance in low income areas, inhabited primarily by Negroes.

9. *Compliance Reports:* By virtue of periodic motions and hearings in this case since its inception, the Court has been kept informed of the progress of desegregation in the Mobile School System. However, this is no substitute for the requirement of scheduled compliance reports. In order that the Court and all parties be kept informed, the plan must provide for a status report to this Court by June 30 of each year and a second such report by September 30 of each year. Copies of such reports must be served upon counsel for the plaintiffs and for the intervenors.

10. *Desegregation of Faculty & Staff:* Insofar as staff and administrative personnel are at present concerned, these have been satisfactorily integrated. In addition, the Court has found as a matter of fact that all in-service training, administrative meetings, and other activities involving

teaching personnel at the school system level have completely abandoned separation by race and are, therefore, proper.

As a first year effort, the Court concludes that the assignment of 15 teachers to schools where the student body is predominantly of a race other than their own is a satisfactory beginning of faculty desegregation. All courts who have dealt with the question of faculty desegregation recognize it as the most difficult of the transitions to make. This Court is of the opinion that the activities of the board in selecting teachers with qualifications that would probably insure their success in a bi-racial situation is sound. It is more important that a sound beginning be made upon which can be based more extensive future desegregation of faculty than a helter-skelter assignment of teachers simply to accomplish more in numbers. Teachers assigned to schools where the students are predominantly of a race other than their own include city and rural schools; high schools and elementary schools; and both races. For the current year this is sufficient.

11. *Construction:* The practice of the Board in constructing new schools where concentrations of students are presently found or reasonably anticipated ultimately to be found, is sound.

In view of current decisions, however, including the *Jefferson* decision, this Court feels compelled to require that the defendant board keep the Court specifically informed with regard to its building program. The Board shall not construct or start construction on any new school without first making a comprehensive investigation concerning the

advisability and location of such school or schools and submit the same to the Court for its approval or disapproval. It is not desirable or necessary that any report be now made with regard to any project already in progress, including the Howard, Scarbrough, Emerson, and Williamson projects, as the Court is satisfied that none of these are racially motivated or inspired.

12. *Curricula, Textbooks, Supplies and Equipment:* The practice of the Board in allocating textbooks, supplies, equipment and all other items on an equal basis, without regard to race is sound and meets Constitutional standards. So too are the practices being pursued in arranging course offerings.

13. *Results:* The *Jefferson* opinion calls upon the Courts to scrutinize the results as one measure of the success of a particular plan. Those Negro students in predominantly white schools for the school year 1967-68 have quadrupled as compared with the prior school year. The 1966-67 school year likewise found the number of such students multiplied by about four over the previous year. The number of schools with bi-racial student bodies have doubled in the first year under the current plan and the number of total pupils in schools with bi-racial student bodies has doubled. In addition all pupils properly exercising an option in the rural areas are being transported to the school selected. A start has been made on faculty desegregation. All of these factors indicate that, measured by results, the plan is working. It is believed that the additional requirements set out in the decree, particularly as to the man-

datory features of the grade level option, the requirements as to additional information to be contained in the various notices, the more adequate preparation of personnel to explain options and counsel with parents, and the modification of procedures for requesting transfers all will have an effect upon results in future years.

DECREE

This cause having come on to be heard on July 18-20 and July 24-28 and August 18, 1967, on plaintiffs' Motion for Further Relief as amended and Plaintiff-Intervenor's Motion for Supplemental Relief and on defendants' answers thereto; pleadings, oral testimony, depositions, answers to interrogatories, exhibits and affidavits having been considered, and the Court having received and considered the written briefs of counsel, and having heard and considered arguments of counsel; and Findings of Fact and Conclusions of Law have been made by the Court; and the Court having heretofore entered an interim order in this cause dated August 24, 1967, but having retained the Motions under submission for further orders and proceedings:

It is, therefore, ORDERED, ADJUDGED and DECREED as follows:

1. Transfer request forms shall be made available during the transfer request period at the office of the principal of each senior high school of the system as well as at the School Board office and the published notice shall so state.

2. Students in senior high school or who have attained the age of 16 years shall be permitted to pick up forms for their own transfers and the published notice shall so state.

3. The form of notice to parents of action taken upon transfer requests shall be revised in such fashion as will indicate with more clarity the reason for the denial of the transfer request when such request is denied.

4. The published notice as to the transfer request period shall, in addition to information included in past display advertising, contain in general terms the bases upon which transfers shall be granted and shall make specific reference to the granting of transfers to correct past racial assignments based upon residence in a former dual attendance area and the availability of subject matter transfers.

5. Appropriate steps shall be taken to insure as nearly as possible the mandatory exercise by parents of the grade level options where appropriate.

6. The form letter directed to parents with regard to the grade level options shall include therein, prominently, the assurance that additional information will be provided by telephone or in person from the offices of the defendant board upon request. Said letter shall contain the address of the School Board office and the telephone number and extension to be called for such additional information.

7. Parents shall be afforded seven days within which to exercise the grade level option.

8. The defendant board shall procure the publication, annually, prior to the opening of the school year of a map or maps of Mobile County showing attendance area boundaries; location of schools; and anticipated bus routes.

9. The defendant board shall instruct its school personnel, including teachers and principals more adequately as to the provisions of the plan governing initial enrollment, grade level options, and transfer provisions in order that intelligent assistance may be given parents in the exercise of these rights.

10. The practice of the Board in furnishing transportation to eligible students who select a proper optional school shall be written into the plan itself and notice thereof included in the letter to parents regarding grade level options and the display advertising concerning initial enrollment.

11. The plan shall be amended to provide that when the boundary line of any attendance area is altered, any parent or guardian whose residence is placed in a new attendance area as a result of a change shall be entitled to exercise the option provisions of the plan just as if such parent or guardian had moved his residence from one attendance area to another; and the plan shall be further amended to provide that actual notice be given to the parents whose children are known to be affected thereby, by letter, which letter shall include an outline of the options available to the parent and the method of exercising the same.

12. Regular status reports shall be filed with this Court and copies furnished to all parties, as follows:

(A) By June 30 of each year, beginning June 30, 1968, the defendant will file with this Court a report containing the following information:

1. A map showing the name and location of each school planned to be used during the coming school year, and the location of all attendance area boundary lines; as well as a description of any changes in attendance area boundary lines that have occurred since the last report to the Court, and any contemplated for the coming school year.

2. A tabulation of the following as they are expected to exist for the coming school year:

   (a) The total number of schools and the number of bi-racial schools in system.

   (b) The total number of students in bi-racial schools.

   (c) The number of Negro students in bi-racial schools by grade, and an indication of how each has been so enrolled.

   (d) The number of white students in bi-racial schools by grade.

3. A tabulation of transfer applications filed during the most recent April 1-15 transfer period, showing with regard to each:

   (a) The name, grade and race of the student.

   (b) The school from which and to which the transfer was requested.

   (c) The action taken on the request, and the reason for denial, as to those denied.

4. (a) The planned faculty assignments for the coming year, listing each teacher by name, race, school and grade or subject taught.

(b) The number of faculty vacancies, by school, that have occurred since the last report. The name and race of the teacher employed to fill each such vacancy, and an indication of whether such teacher is newly employed or was transferred from within the system. As to transferred teachers, the schools from which and to which transferred.

(B) By September 30 of each year, beginning September 30, 1968, the defendant will file with this Court a report containing the following information:

1. A notation and explanation of any attendance area boundary lines that are in effect, other than as reported on the map referred to in 12 (A) 1 above, with reference to the June 30 report.

2. A tabulation of the information required by 12 (A) 2 above, as it exists after the opening of school.

3. A tabulation of the information required by 12 (A) 4 (a) above, as it exists after the opening of school.

13. Except with respect to any building project already in progress, including the Howard, Scarborough, Emerson and Williamson projects, the defendant will, prior to beginning construction of any new school, make a compre-

hensive investigation as to the advisability and location of such school, and will submit the same to this Court for approval or disapproval.

14. The notice published prior to the opening of school each year, giving notice of the option provisions of the plan, shall contain the statement that information as to the optional schools available will be furnished upon request by the principals of all schools at the time of enrollment, or by telephone or personal request to the School Board office. And the address, and telephone number of the School Board office shall be given.

15. The plan shall be amended to require that all display advertisement notices published in the newspaper pursuant to the plan, shall be published once a week for three consecutive weeks, immediately preceding the occurrence of the event in connection with which the notice is given.

16. Defendants' desegregation plan filed in this Court on October 19, 1966 meets current constitutional standards and is therefore approved by this Court. In order to insure better operation of the plan the foregoing requirements shall be effectuated promptly.

17. In all other respects, except as to relief included in the interim order of August 24, 1967, plaintiff's Motion for Further Relief as Amended and Plaintiff-Intervenor's Motion for Supplemental Relief are denied.

18. Jurisdiction of this cause is retained to enter such further orders and to take such other proceedings as may be meet and just in the premises.

Entered this 13th day of October, 1967.

Court of Appeals Opinion of March 12, 1968

Before MARIS,* THORNBERRY and AINSWORTH, Circuit Judges.

THORNBERRY, Circuit Judge:

In the face of a vexing, continuing problem, this Court decreed that school boards in this Circuit have an affirmative duty to effectuate a transition to unitary racially nondiscriminatory school systems. This means integration of faculties, facilities, and activities, as well as students. The time for implementing programs that work is now. United States v. Jefferson County Board of Education, 5th Cir. 1967, 372 F.2d 836, aff'd en banc, 380 F.2d 385, cert. denied sub nom., Caddo Parish School Board v. United States, 1967, 389 U.S. 840, 88 S. Ct. 67, 19 L. Ed.2d 103.

With the law in mind, we turn once again to Mobile County, Alabama.[1] In 1966, another panel considered Mobile's plan for desegregation of schools and found it deficient in several respects:

> Principal among these [defects] is the fact that even as to those grades which, under the plan, have actually become "desegregated" there is no true substance in the alleged desegregation. Less than two-tenths of one percent of the Negro children in the system are attending white schools. Another defect is the length of time that the plan would require to come to a final fruition;

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* Of the Third Circuit, sitting by designation.

[1] Counting temporary measures and appeals on the merits, litigation concerning the desegregation of Mobile schools has now been before the Fifth Circuit five times since 1963.

another is the option given to white students living within the "area" or "district" of a given school to transfer to another district or area to attend a white school there, without the granting of a similar option to a Negro child residing within the area of a Negro school to transfer to a white school outside the area; a further significant defect is the lack of provision for a Negro child to attend a school offering particular subjects if such subjects are taught only in white schools; and finally, there is the failure of the plan to start desegregation of the faculties of the schools.

Davis v. Board of School Commissioners of Mobile County, 5th Cir. 1966, 364 F.2d 896, 901. The school board attempted to meet these objections and to comply with the Court's decision by (a) drawing new boundary lines for some of the school attendance areas or geographic zones, (b) making optional schools outside of attendance areas available to Negroes as well as whites, and (c) taking steps toward gradual faculty desegregation. In the urban areas of the county, a Negro or white student can now attend (a) the school serving his attendance area, (b) the nearest formerly white school serving his residence, or (c) the nearest formerly Negro school serving his residence. The optional schools, *i.e.*, the nearest formerly white and formerly Negro schools, are available only to students in the following categories: (a) Those enrolling for the first time in the Mobile Public School System; (b) those enrolling in the first grade; (c) those who change their residence from one attendance area to another; (d) those going from elementary to junior high school or from junior high school to senior

high. Transfer subject to approval is available to students of any grade. In the rural areas of the county, a Negro or white student can attend (a) the nearest formerly white school serving his residence or (b) the nearest formerly Negro school serving his residence. Because of the relatively small number of schools and the widely scattered population, the board did not consider attendance areas practical for the rural areas. As for faculty desegregation, the board selected a small number of white and Negro teachers to whom to offer the *option* of transferring to a school in which students and teachers of the opposite race predominate.

The district court held that the boundary lines for the attendance areas had been drawn on a nonracial basis and that the school board's over-all plan for desegregation of students was in substantial compliance with the Fifth Circuit decisions. The court also held that the board had made an adequate start toward desegregation of faculty.[2] While many subsidiary issues are raised on this appeal, the fundamental ones are whether this Court can put its stamp of approval on the attendance-zone lines drawn by the school

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[2] After exhaustive hearings the district court entered an "interim order" on August 24, 1967 requiring the Board of School Commissioners to afford Negro students in the metropolitan area an opportunity to transfer to predominantly white schools serving the areas of their residences as a result of boundary changes. The transfer period was to be held from August 28 through August 31; pupils were to be allowed to transfer to the new schools made available by the boundary changes or to the nearest formerly white or formerly Negro schools serving their residences. On October 13, 1967, the court denied the motions filed by appellants for further relief and entered the findings discussed in the text. This Court had previously denied appellants' motion for injunction pending appeal on September 13, 1967. This appeal was expedited.

board and the free-choice plan engrafted onto attendance zones and whether it can affirm the finding that the board has made an adequate start toward desegregation of faculty.

I. *Students*

We look first to the results produced by appellee's plan for integrating students in Mobile County. The Mobile Public School System, the largest in Alabama, has 93 schools. In round numbers, there are 44,000 white students and 31,000 Negroes for a total of 75,000. According to appellee's figures for the current school year (1967-68), there are 33 biracial schools in the system as compared with 15 a year ago. 29,031 students attend biracial schools as compared with 15,650 in 1966-67. 27,023 of the students attending biracial schools are white and 2,008 are Negro. There are 692 Negroes attending schools of predominantly white enrollment and 4 white students attending schools of predominantly Negro enrollment. Accepting the fact that this Court uses the HEW guidelines as a yardstick for measuring the progress of desegregation in particular school districts, the school board argues that it has more than satisfied HEW percentages. While the Guidelines require that a district employing a freedom-of-choice plan for at least two years have 15 to 18 per cent of its student population in desegregated schools, Mobile now has 29,031 or 38 per cent of its students in biracial schools.

The percentage of total students in biracial schools is superficially acceptable, but beneath the surface the picture is not so good. In its per curiam adopting the panel's opinion in *Jefferson County*, this Court said that school desegre-

gation can first be measured quantitatively, using percentages as a rough rule of thumb, but ultimately must be measured qualitatively, judging whether schools are still identifiable as white or Negro. 380 F.2d, at 389-390. Judging by the qualitative standard and by what we conceive to be the spirit of *Jefferson County,* we are unable to say that Mobile's plan is working so well as to make judicial interference unnecessary at this time. Two-thirds of the schools remain totally segregated and unquestionably identifiable as Negro or white; desegregation of the remaining schools has been so minimal that it would be generous to say they are no longer identifiable as Negro or white. Though Negroes comprise about 41 per cent of the student population, the crucial fact is that only 2,008 or 6.5 per cent of them are experiencing a desegregated education. Moreover, this figure of 6.5 per cent can realistically be reduced to 2 per cent (692) because 1,316 of the 2,008 Negroes attending biracial schools are in schools attended by only 4 white students. The only Negroes really experiencing a desegregated education are the 692 attending schools of predominantly white enrollment. Although this is 511 more than the number of Negroes who attended predominantly white schools last year (181), it is inarguable that the percentage of Negroes experiencing a desegregated education is still too low. The number of Negro children in school with white children is so far out of line with the ratio of Negro school children to white school children in the system as to make inescapable the inference that discrimination yet exists. See *Jefferson County,* supra, 372 F.2d, at 887.

Having found the results of the present plan unsatisfactory, we turn to the difficult question of what should be

done. Our primary concern is to see that attendance zones in the urban areas of Mobile County be devised so as to create a unitary racially nondiscriminatory system. Appellee contends, and the district court found, that boundary lines for the zones were drawn on a nonracial basis, using objective criteria such as natural landmarks and safety factors; but there is no information in the record by which this Court can judge whether the district court's determination was correct or not. The school officials who testified were unable to state clearly what criteria they used in determining the location of the various lines, and they were unable to produce the source material—maps, charts, memoranda, etc.—they used. For the benefit of reviewing judges who may be unfamiliar with the city or county in question, it is essential that school officials be able to state what criteria were used in determining geographic zones and to produce evidence to support their statements. In this case, it will be necessary for the board to do the job again, this time making a survey of the type suggested by appellants. On the basis of information obtained from the survey, school officials will draw attendance-zone lines on what they conceive to be a nonracial basis. If there is further litigation, evidence should be available to test the validity of the board's action.[3]

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[3] To support their assertion that the present attendance zones perpetuate segregation, appellants point out that in downtown Mobile there are overcrowded Negro schools in the same vicinity as under-populated white schools and also that in many instances a school is located on the periphery of the attendance area it serves rather than in the center. These facts, they say, suggest that considerations other than convenience of the students, namely race, determined the prseent zones. The board makes somewhat unpersuasive rebuttals to these points. We trust that when a survey is made and attendance-zone lines are thereafter drawn on a nonracial basis, these objections will not have to be renewed by appellants.

The school board has decided that assignment of students in its system should be based primarily on an attendance-area plan. Indeed, in a system as large as Mobile's, this approach is surely more practical than a pure free-choice plan. We therefore accept the board's policy decision in this regard but insist on a survey and a new effort to draw zone lines on a nonracial basis so that the attendance-area plan will promote desegregation rather than perpetuate segregation. It is intended that attendance areas be designated according to strictly objective criteria with the caveat that a conscious effort should be made to move boundary lines and change feeder patterns which tend to preserve segregation.[4] In the future, any boundary lines which simply encircle Negro residences without being explainable in terms other than race will be constitutionally suspect. To go a step farther, we hold that once attendance zones have been properly designated, the student's option to attend the nearest formerly white or formerly Negro school outside his zone must be eliminated.

It is important to clarify our reason for interfering with school management to the extent of requiring abandonment of the limited options. Under *Jefferson County,* a court is justified in requiring a board to change a particular school-attendance plan only when it is shown that the current plan

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[4] We have the impression that desegregation will be greatly advanced in Mobile if all students attend schools serving nonracial zones. In this regard, we quote from footnote 1 of the per curiam entered by the Court in Jefferson County:

> "In the South," as the Civil Rights Commission has pointed out, the Negro "has struggled to get into the neighborhood school. In the North, he is fighting to get out of it." Civ. Rts. Comm. Rep., Freedom to the Free. 207 (1963)

380 F.2d, at 389.

does not work.[5] In the instant case, the board has been on notice since it was last before this Court that a small percentage of Negroes attending school with white students represents a significant defect. After nearly two years, the percentage of Negroes experiencing a desegregated education has increased from .2 per cent to 2 per cent. Coming so late in the day, this is not enough progress. The idea of superimposing limited options on an attendance-area plan has failed to bring Mobile very far along the road toward the ultimate goal of a unitary system wherein schools are no longer recognizable as Negro or white. Since it is evident that the process of selecting optional schools has somehow thwarted the progress of desegregation, the logi-

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[5] We do not say that we are imposing a full-scale change of attendance plan on Mobile. The board has said that its primary allegiance is to the attendance-area or neighborhood-school concept as distinguished from pure freedom of choice. We would merely require the board to be true to that allegiance. In *Jefferson County*, the Court accepted local decisions to use freedom of choice but required certain changes which would promote desegregation rather than perpetuate segregation. In this case, we accept the local decision to use an attendance-area plan but require a change which we are convinced will promote desegregation. It seems clear to us that the selection of schools outside of geographic zones is thwarting progress that could be made if each student were confined to the schools serving his zone absent a nonracial reason for transfer. Therefore, we require the elimination of optional schools.

The district judge found that the limited options add a needed flexibility to the attendance-area plan—needed because students and parents have likes and dislikes that should be respected. In the interest of creating a system that measures up to constitutional standards, these options must nevertheless give way. As the Court said in *Jefferson County*, a student has no constitutional right to free choice of schools. 380 F.2d at 390. The school board, on the other hand, has a constitutional duty to desegregate its system.

cal solution is the abandonment of limited options.* As the Court said in the per curiam entered in *Jefferson County*, freedom of choice is not a goal in itself but one of many approaches available to school boards. If it does not work, another method must be tried. 380 F.2d, at 390. Since the limited options have not worked, we hold that after the boundary lines have been redrawn on a nonracial basis, each student in the urban areas must attend the schools serving his attendance zone absent some compelling nonracial reason for transfer.

Our discussion of attendance zones is confined to the urban areas; at this time, we defer to the board's view that zones would be impractical in the rural parts of the county. If school officials should change their minds and decide to try an attendance-area plan in the rural areas, there must, of course, be a survey. If, on the other hand, the board should continue to limit the options of rural students to the nearest formerly white and formerly Negro schools serving their residences, the steps outlined for a free-choice plan in the *Jefferson County* decree must be followed. We stress particularly the transportation provision of that decree. 380 F.2d, at 392.

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* The district court found that a majority of the present geographic zones have both races residing within them. This finding persuades us that if all students attended schools serving their zones, there would be more desegregation than there is. When a further effort is made to devise nonracial zones and to eliminate boundary lines and feeder patterns designed to perpetuate segregation, Mobile may at least achieve a unitary system.

II. *Faculty*

In the last Mobile case, Judge Tuttle said there must "be an end to the present policy of hiring and assigning teachers according to race by the time the last of the schools are fully desegregated for the school year 1967-68." 364 F.2d, at 904. In response to this directive, the board offered to a small group of teachers the option to transfer to a school in which students and teachers of the opposite race predominate. The most recent figures indicate that 12 Negroes have elected to teach in predominantly white schools and 3 whites have elected to teach in predominantly Negro schools. Despite the Court's decree, it seems apparent that the policy of hiring and assigning teachers according to race still exists. In a system having approximately 2700 teachers, the surface of the problem of faculty segregation is hardly scratched by the transfer of 15 teachers to schools of the opposite race. The reason for the lack of progress is that the board has not yet shouldered the burden. While any sound program should encourage voluntary transfers, the responsibility for faculty desegregation, just as the responsibility for student desegregation, lies ultimately with the board, not the teachers. Accordingly, we have entered a decree requiring the board to take positive steps by way of assigning teachers to schools of the opposite race. In the final analysis, the pattern of teacher assignment to a particular school must not be identifiable as tailored for a heavy concentration of either Negro or white students. Our provisions for faculty desegregation follow the ones entered by another panel of this Court in Stell v. Board of Education for the City of Savannah and the County of Chatham, 5th Cir. 1967, 387 F.2d 486.

We enter a decree along these lines because faculty integration has been recognized as the key to integration of all phases of education in a school system. As Judge Wisdom said in *Jefferson County,*

> Yet until school authorities recognize and carry out their affirmative duty to integrate faculties as well as facilities, there is not the slightest possibility of their ever establishing an operative nondiscriminatory school system.

372 F.2d, at 892. He goes on to quote with approval the following statement by the Eighth Circuit in Clark v. Board of Education of the Little Rock School District, 8th Cir. 1966, 369 F.2d 661, 670:

> The lack of a definite program will only result in further delay of long overdue action. We are not content at this late date to approve a desegregation plan that contains only a statement of general good intention. We deem a positive commitment to a reasonable program aimed at ending segregation of the teaching staff to be necessary for the final approval of a constitutionally adequate desegregation plan.

On the whole, the provisions of our decree are designed to effectuate (a) the survey of the system, (b) the establishment of an attendance-area plan with attendance-zone lines drawn on a nonracial basis, and (c) desegregation of faculty. The decree does not concern assignment of students in the rural areas; but we repeat that if there are to be options but no attendance zones, the steps outlined in the *Jefferson County* decree for a free-choice plan must be

followed. Somewhat apart from the general objectives just enumerated, we have also decreed full integration of interschool activities. Although Negroes and whites play together on athletic teams in bi-racial schools, the board acknowledges that all-Negro teams are not scheduled against all-white teams. Such a distinction based on race is no longer tolerable; the integration of activities must be complete. *Jefferson County*, supra, 372 F.2d, at 846, footnote 5.

The judgment of the trial court is reversed and the case is remanded for entry of the decree attached to this opinion.

DECREE

It is ordered, adjudged and decreed that the appellees, their agents, officers, employees and successors and all those in active concert and participation with them be and they are permanently enjoined from discriminating on the basis of race or color in the operation of the Mobile school system. As set out more particularly in the body of the decree, they shall take affirmative action to disestablish all school segregation and to eliminate the effects of the dual school system. As stated in the opinion of the Court of Appeals, the primary concern is that attendance-zone lines be drawn on a nonracial basis. To this end the board will conduct a survey as more specifically described in Section IV herein.

I.

STUDENT ASSIGNMENT

A. The appellees shall, to the extent feasible, make assignments of students and draw attendance area lines in such a way as to eliminate the effects of past racial deci-

sions in assigning students, drawing attendance lines, and constructing school buildings.

B. Appellees shall arrange for the conspicuous publication of an announcement, giving detailed information as to the name and location of schools to which students have been assigned for the coming school year pursuant to the desegregation plan, in the newspapers most generally circulated in the community between March 1 and March 31 of each year. Publication as a legal notice is not sufficient. Whenever any revision of attendance zones is proposed, appellees shall similarly arrange for the conspicuous publication of an announcement at least 30 days before any change is to become effective, naming each to be affected and describing the proposed new zones. Copies of all material published hereunder must also be given at that time to all television and radio stations serving the community. Copies of this notice and decree shall be posted in each school in the school system and at the office of the Superintendent of Education.

C. A street or road map showing the boundaries of, and the school serving, each attendance zone and a chart showing feeder patterns must be freely available for public inspection at the office of the Superintendent. Each school in the system must have freely available for public inspection a map showing the boundaries of its attendance area, and a chart showing its feeder pattern. A copy of this map and chart shall be given to the Parent Teachers Association at each school.

D. After the attendance areas are redrawn to achieve the desegregation of the system as provided in section IV

of this decree, all students will be required to attend the school serving their zone, absent some compelling nonracial reason.

II.

Construction

To the extent consistent with the proper operation of the school system as a whole, the school board will, in locating and designing new schools, in expanding existing facilities, and in consolidating schools, do so with the object of eradicating past discrimination and of effecting desegregation. The school board will not fail to consolidate schools because desegregation would result.

Until such time as the Court approves a plan based on the survey conducted pursuant to section IV herein, construction shall be suspended for all planned building projects at which actual construction has not been commenced.

Leave to proceed with particular construction projects may be obtained prior to the completion of the survey upon a showing by the appellees to the Court, that particular building projects will not have the effect of perpetuating racial segregation.

III.

Faculty and Staff Assignments

A. *Faculty Employment.* Race or color shall not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff members, including student teachers, except that race may be taken into account for the purpose of counteracting

or correcting the effect of the segregated assignment of faculty and staff in the dual system. Teachers, principals, and staff members shall be assigned to schools so that the faculty and staff is not composed exclusively of members of one race. Wherever possible, teachers shall be assigned so that more than one teacher of the minority race (white or Negro) shall be on the desegregated faculty. The Board will continue positive and affirmative steps to accomplish the desegregation of its school faculties and to achieve substantial desegregation of faculties in its schools for the 1968-69 school year notwithstanding teacher contracts for 1968-69 may have already been signed and approved. The tenure of teachers in the system shall not be used as an excuse for failure to comply with this provision. The appellees shall establish as an objective that the pattern of teacher assignment to any particular school not be identifiable as tailored for a heavy concentration of either Negro or white pupils in school.

B. *Dismissals.* Teachers and other professional staff members may not be discriminatorily assigned, dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race or color. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system shall be filled through recruitment from outside the system unless no such displaced staff member is qualified to fill the vacancy. If, as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifications of all staff members in the system shall be evaluated in selecting the staff member to be released without con-

sideration of race or color. A report containing any such proposed dismissals, and the reasons therefor, shall be filed with the clerk of the Court, serving copies upon opposing counsel, within five (5) days after such dismissal, demotion, etc., as proposed.

C. *Past Assignments.* The appellees shall take steps to assign and reassign teachers and other professional staff members to eliminate the effects of the dual school system.

IV.

Survey

The appellees shall conduct a survey of their school system and report to the Court, by June 1, 1968, the results of such survey, and shall specifically report as follows:

A. The appellees shall prepare a map for each school showing the location, by race and grade, of each student in the school system during the 1967-68 school year.

B. Recommendations for redrawing attendance zone lines to achieve desegregation of the schools.

C. Recommendations for the reorganization of the "feeder" system consistent with the objective of achieving desegregation.

D. A description of each school in the school system to include:

1. The size of each site and whether it is suitable for permanent use, suitable for temporary use, or should be abandoned;

2. The number of buildings on each site and as to each, whether it is suitable for permanent use, suitable for temporary use or should be abandoned;

3. The standards and criteria used to determine whether buildings and sites are suitable for permanent use, suitable for temporary use, or should be abandoned;

4. The number of regular, special and portable classrooms at each school building and the number of square feet in each such classroom;

5. Recommendations for the future use (including grades to be accommodated) of each school building and site for the next ten years, including the need for additional classrooms and the information upon which such recommendations are based.

E. A property inventory to include:

1. A list of all sites currently owned;

2. A list of all sites which the appellees have present plans to acquire and the size and intended use of such sites;

3. The basis for selection of all sites listed under numbers 1 and 2.

F. The status of construction of each school building currently under construction and the status of planning for the use of sites currently owned.

G. A forecast of enrollment at each school for the next ten years and the information upon which such forecast shall be based.

V.

Services, Facilities, Activities and Programs

No student shall be segregated or discriminated against on account of race or color in any service, facility, activity, or program (including transportation, athletics, or other extra-curricular activity) that may be conducted or sponsored by the school in which he is enrolled. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer or newly assigned student except that such transferees shall be subject to longstanding, non-racially based rules of city, county, or state athletic associations dealing with the eligibility of transfer students for athletic contests. All school use or school-sponsored use of athletic fields, meeting rooms, and all other school related services, facilities, activities, and programs such as commencement exercises and parent-teacher meetings which are open to persons other than enrolled students, shall be open to all persons without regard to race or color. All special educational programs conducted by the appellees shall be conducted without regard to race or color. Athletic meets and competitions and other activities in which several schools participate shall be arranged so that formerly white and formerly Negro schools participate together.

VI.

Reports

A. On June 10, of each year beginning in 1968, appellees will submit a report to the Court, and serve copies on opposing counsel, showing the number of persons, by school, grade (where appropriate), and race they anticipate will be employed for the fall semester. Within one week after the day classes begin for the fall semester in 1968 and each succeeding year appellees will submit a report to the Court, and serve a copy on opposing counsel, showing the number of teachers actually working at each school by grade (where appropriate) and race. In 1968, a date later than June 10 may be appropriate because of the survey.

B. On the same dates set forth in VI(A) above, reports will be submitted to the Court, and a copy served on opposing counsel, showing the number of students by school, grade, and race, expected and actually enrolled at the schools in Mobile County.

C. Within one week after the opening of each school year, appellees shall submit a report to the Court and serve copies on opposing counsel, showing the number of faculty vacancies, by school, that have occurred or been filled by the appellees since the order of this Court or the latest report submitted pursuant to this subparagraph. This report shall state the race of the teacher employed to fill each such vacancy and indicate whether such teacher is newly employed or was transferred from within the system. The

tabulation of the number of transfers within the system shall indicate the schools from which and to which the transfers were made. The report shall also set forth the number of faculty members of each race assigned to each school for the current year.

ON PETITION FOR REHEARING

Per Curiam:

Appellee's motion for rehearing in the above styled cases is denied, except that the Decree issued by this Court for entry by the District Court will be modified as follows:

1. Under Section IV-A, appellee will be permitted to consolidate the survey information on two maps—one to cover the urban area and the other the rural area—so long as the information is reported on the consolidated maps in a clear and comprehensible manner. However, the survey must designate students by grade.

2. Under Section IV-C, the date of submission of recommendations for the reorganization of the feeder system of assignments to secondary schools will be postponed from June 1, 1968 to August 1, 1968.

3. Likewise, under Section IV-D-5, the date of submission of recommendations for the future use of all school plants and sites for the next ten years will be postponed from June 1, 1968 to August 1, 1968.

4. Under Section IV-G, the date of submission of the forecast of enrollment at each school for the next ten years will be postponed from June 1, 1968 to December 1, 1968.

District Court Opinion of July 29, 1968

On March 12, 1968, the Fifth Circuit Court of Appeals reversed a prior order of this court in this case and in the reversal opinion included a specific decree to be followed. See *Davis, et al.* v. *Board of School Commissioners*, 393 F2d 690 (1968). This decree was later modified and is set out in the same citation.

Pursuant to said decree, as amended, the Board of School Commissioners of Mobile County filed its survey and suggested area attendance lines with the court on the 7th day of May 1968 and on the 12th day of June 1968, moved the Court to disapprove said area attendance zones and to place the entire school system on freedom of choice.

On the 29th day of May 1968, a petition to intervene was filed by defendant-intervenors representing many parents of students attending the public schools, who join in vigorous opposition to any compulsory zoning plan. On June 17, 1968, plaintiffs filed a memorandum in opposition of motion to intervene. The petition to intervene was granted on June 21, 1968. On July 1, the plaintiffs filed memorandum in opposition to defendants' motion to reject their own zone plans which were filed May 7th. Hearing on the area attendance zones and petition for freedom of choice was set on July 10th but was continued for one week, and hearing was commenced at 9:30 A.M. on the morning of the 17th of July and concluded after six days in court at about 4:20 P.M. on July 24th. During this hearing the plaintiffs introduced their suggested Alternate "B" area attendance zones which were based on a computer analysis made by APT Associates in conjunction with Dr. Myrom Lieber-

man, Professor of Education at Rhode Island College. The Government, plaintiff-intervenor, filed its suggested Alternate "A" attendance area zone plans which were prepared by Mr. Frank Dunbaugh, attorney for plaintiff-intervenor. If there is any one thing on which plaintiffs, plaintiff-intervenor, defendants, and defendant-intervenors agree, it is that no party likes the other parties suggested zones. Dr. Lieberman, who testified at length as an expert, readily stated that he did not have as much information as he would have liked in preparing plaintiffs' suggested Alternate "B" zones and that if he had had more information he could have done a better job, that his zones were not perfect and that a qualified person with more information perhaps could do a better job. Mr. Dunbaugh stated that he prepared Alternate "A" suggested area zones on behalf of the Government and he readily stated that he was not an expert educator, that his zones were not perfect and can doubtless be improved upon in certain areas. The defendant is not satisfied with its own area zones as it asked the Court to disapprove them. These three vastly different zone plans give the Court very little assistance and demonstrate the difficulty in preparing any practical area attendance zones.

All three plans recognize the fact and the Court finds, that due to concentration of races in certain areas, attendance area zones will leave some schools wih one hundred percent white attendance and some with one hundred percent Negro attendance.[1] However, the decree of the Court of Appeals contains an explicit mandate that Mobile metropolitan schools shall be organized into attendance

[1] Plaintiffs' Exhibits 16 and 17, Plaintiff-Intervenor's Exhibit 6 and Defendants' Exhibit 16.

zones on a nonracial basis, and this Court has no discretion to grant the motions for adoption of a purely freedom-of-choice system.

Under certain of the suggested zoning plans, and perhaps all, it would in some instances require children in the system who are scheduled to graduate next year to transfer from the school they have attended and thus spend a single year in a school new to them and separated from familiar surroundings and friends. This has met with much opposition both from students and parents. It seems to the Court that the opposition is justified. Therefore, transfers will be granted to any student who has only one grade remaining in the school he last attended, whether the school is elementary or secondary. This transfer provision is granted to preserve the school-identify relationship which all parties agree is most important to the educational process.

The Court recognizes the fact that its first order in the Birdie Mae Davis case many years ago requiring school integration resulted initially in a low percentage of the minority group attending a school or schools of the opposite race. This percentage has increased as time went on. The plan herein decreed by the Court will increase the percentage of integration substantially, but due to concentration of races in certain areas, it will of necessity in some instances place a very small percentage of minority groups in schools of the opposite race. It seems to be the consensus of educators that this is not a sound educational program for either race. Consequently in the plan herein decreed, in instances which the minority race is less than five percent (5%) of the entire school attendance, such minority students will upon request, and at such time as the

Board may require, be granted transfers to the available school of their choice nearest their residence serving their grade level.

There were several criticisms of the Board's proposed plan in which both the plaintiffs and the plaintiff-intervenor joined, one of which was the closing of Old Shell Road School. Based on the evidence presented in court, together with the Court's knowledge of the Old Shell Road School and its environs, the Court feels that Old Shell Road should not be closed. The Court is cognizant of the fact that it is housed in an old two-story building and that the grounds on which it is situated should be larger for an ideal location. Nevertheless, weighing the age of the school, the fact that it is two-story, the fact that its grounds should be larger, against the many advantages of keeping it open, the Court's plan, by increasing its area attendance zone, requires that it be left open as a school. This thought was concurred in by Dr. Lieberman.

It will be noted in the Court's plan that both Old Shell Road School and Augusta Evans School are in the same area attendance zone. Under the Court's plan, Old Shell Road is to be operated as the elementary school of that zone and Augusta Evans is to be operated for special education classes for the handicapped of the entire system on a completely integrated basis.

Another criticism joined in by both plaintiffs and plaintiff-intervenor, was that of operating Hillsdale Heights as a 1-12 school. The Court feels that this should be changed and that the high school heretofore operated at Hillsdale Heights should be transferred to Shaw High School.

One other area in which the Government criticized the plan proposed by the defendants is that of closing Elli-

cott and keeping Whitley open. Dr. Lieberman placed great importance on the closeness of Whitley to both International Paper Company and Scott Paper Company plants which of necessity create some objectionable features. What Dr. Lieberman is overlooking, is the fact that not only the areas of both of these schools, but the entire Mobile County area is the site of a number of large paper mills, which constitute a major factor in the economy of the area, and around which has grown up housing communities of substantial size. Hence, the main objection expressed by Dr. Lieberman could be stated as to almost any area of metropolitan Mobile, dependent upon the direction of the wind. Those acquainted with and dependent upon the paper making industry, soon adjust themselves to the aroma and realize that its advantages far outweigh its objections.

A comparison of defendants' Exhibits 25 and 26 certainly demonstrate the fact that not only the closing of Whitley would be a mistake but to keep Ellicott open as a school would likewise be a mistake. All parties seem to be in accord that Southside and Barney Schools should be closed. Consequently, the decree provides for the closing of Ellicott, Barney and Southside.

It will be noted from the area attendance zones adopted by the Court that as to the Hall School, there will be in addition to the elementary classes, sufficient room to accommodate special education classes for South Mobile, such as adult basic education and a number of groups with federal reimbursement, in addition to federal programs, including the Head Start Program, as administered by the Community Action Organization.

In drawing the area attendance zones, the Court eliminated any significant amount of bussing students from one area of the city to another area. One area attendance zone will be bussed to Warren Elementary School. This is a temporary measure since the defendants contemplate the construction of an elementary school in this area.

The area attendance zones drawn and adopted by the Court apply only to Elementary and Junior High Schools and are hereto attached and made a part of this opinion. The defendants are directed to have these maps published in a newspaper of general circulation in Mobile County, Alabama, in the afternoon edition of the paper on July 31, 1968, the morning of August 2, and the morning of August 4, 1968. They are further directed to post both the elementary school map and the junior high school zone map in a conspicuous place in each school house in the urban area and in the office of the Superintendent of Education, Yerby Building, 504 Government Street, for public examination. Said maps shall remain posted and available for inspection at the schools and at the School Board Office continuously throughout the school year.

The defendants are further directed to make available to the news media in Mobile County, such information as will enable the public to be fully informed as to the operation of the schools commencing the September 68-69 term pursuant to this decree and order.

SENIOR HIGH SCHOOLS

As to the students who will attend the senior high schools (grades 9 through 12) and those 8th grade students resid-

ing in the Carver and Craighead attendance zones[2] at the beginning of the 68-69 semester, the Court finds that none of the plans suggested are feasible. The Court is further of the opinion that no one at this time, however well versed or experienced, could draw sound attendance area zoning plans for the high schools in the system. On the contrary, the Court finds that imposition of attendance zones for high schools at this time would result in locked-in segregation to a substantially greater degree than will be the case under the freedom-of-choice system. The Court of Appeals recognizes that there may be exceptions to the requirement for zoning for "compelling non-racial reasons" and this Court is compelled to find under the evidence that such reasons exist for deferring the attempt to devise rigid attendance zones for Mobile's high schools for the time being. The zones for elementary and junior high schools as adopted by this Court, no doubt have some imperfections which experience will disclose. The Court feels that the knowledge acquired by the use of the zones adopted by the Court and such facts as will be disclosed from their use is necessary before any practical, workable, attendance zone area can be established for the high school level. Therefore, for the 1968-69 school year the grades specified above in this paragraph in the metropolitan area will operate on a freedom of choice desegregation plan. The Court is of the opinion that such a plan is more feasible at this time than the attendance zones. This conclusion by the Court was

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[2] This deviation from the 9-12 grade structure is necessitated by the absence of a Junior High School in the Craighead and Carver attendance zones.

[3] See footnote number 2.

reached after consideration of all the proposed plans, none of which offer satisfactory workable zones on the secondary level. The Court also considered legitimate local problems which would deter effectual desegregation on an attendance zone plan. *Goss* v. *Board of Education,* 373 U.S. 683, 689 (1963). The Court feels that in the light of the facts disclosed by the evidence, the adoption of freedom of choice to this limited extent, is not in contradiction to the mandate of the Court of Appeals since that Court has expressly affirmed a form of freedom of choice for the rural schools in the Mobile System, in recognition of a number of practical considerations.

The freedom of choice plan for the high schools shall operate on an interim annual basis and its continuance will be totally dependent upon the speed of desegregation in the secondary schools. If at the end of the 1968-69 school year the Court determines that such a plan fails in reaching the desired results, freedom of choice will be abandoned for a more effective plan. *Green* v. *County School Board of New Kent County,* 88 S.Ct. 1689, 391 U.S. 430 (May 27, 1968).

The defendants are ordered to file with the Court on December 16, 1968, a report showing the racial composition of each senior high school and each grade therein. The Court will then determine whether some other plan must be devised for institution at the commencement of the 1969-70 school year.

Attached to and made a part of this opinion is the decree setting out in specific detail the steps which the Court orders the School Board to administer in establishing the freedom of choice plan. This decree was designed after the *Jefferson* decree entered by the Fifth Circuit Court of Appeals on March 29, 1967. 380 F2d 385, 390 (1967).

Due to the time element the decree is somewhat modified to allow the School Board ample opportunity to tabulate and coordinate the results of the choice forms and to implement this plan for the opening of the 68-69 school year.

The six day hearing just concluded in this case attracted wide public interest. For the first few days the courtroom was filled to capacity and crowds standing in front of the Federal Building required the closing of the street. At all other times the courtroom was filled substantially to capacity. The trial was widely publicized by all news media. Due to the time element and in the light of the general public interest displayed during the hearing, and the publication required by this decree, the Court feels that choice forms may be effectively hand distributed from the schools and is therefore not required that the postal service be used. See Section II(f) of the decree hereto attached.

The decree does not contain any provision dealing with desegregation of faculty, new construction, or desegregation of facilities and activities. This Court's order dated May 13, 1968, fully sets forth the obligation of the School Board in these respects and must be implemented for the 1968-69 school year.

DONE in Mobile, Alabama, this 29th day of July 1968.

DANIEL H. THOMAS
Chief Judge
United States District Court
Southern District of Alabama

District Court Opinion of July 29, 1968

DECREE

It is ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees, and successors and all those in active concert and participation with them, be and they are permanently enjoined from discriminating on the basis of race or color in the operation of the school system. As set out more particularly in the body of the decree, they shall take affirmative action to disestablish all school segregation and to eliminate the effects of the dual school system.

I

DESEGREGATION

Commencing with the 1968-69 school year, the school grades, 1 through 8, with a minor exception,[1] shall operate under area attendance zone desegregation plan. The specific area attendance zones are attached to and made a part of this decree. No alterations or deviations shall be allowed without the expressed approval of the Court. The schools and their grade level which shall operate under area attendance zones for the school term 1968-69, are listed below.

Arlington	Grades 1-5
Austin	Grades 1-6
Bienville	Grades 1-6

[1] The prospective eighth grade students residing in the Carver and Craighead area attendance zones shall exercise a freedom of choice for 1968-69.

Brazier	Grades 1-6
Brookley	Grades 1-6
Caldwell	Grades 1-6
Chicasaw	Grades 1-6
Council	Grades 1-5
Crichton	Grades 1-6
Dickson	Grades 1-6
Dodge	Grades 1-6
Eight Mile	Grades 1-8
Emerson	Grades 1-6
Fonde	Grades 1-6
Fonvielle	Grades 1-6
Forest Hill	Grades 1-5
Glendale	Grades 1-6
Gorgas	Grades 1-6
Grant	Grades 1-6
Hall	Grades 1-6
Hamilton	Grades 1-6
Hillsdale	Grades 1-8
Howard	Grades 1-6
Indian Springs	Grades 1-6
Leinkauf	Grades 1-6
Maryvale	Grades 1-6
Mertz	Grades 1-6
Morningside	Grades 1-6
Old Shell Road	Grades 1-6
Orchard	Grades 1-5
Owens	Grades 1-5
Palmer	Grades 1-5
Robbins	Grades 1-5
Shepard	Grades 1-6
Stanton Road	Grades 1-6

Thomas	Grades 1-6
Warren	Grades 1-6
Westlawn	Grades 1-6
Whistler	Grades 1-6
Whitley	Grades 1-5
Will	Grades 1-5
Williams	Grades 1-6
Woodcock	Grades 1-6
Azalea Road	Grades 7-8
Carver	Grades 6-7
Clark	Grades 7-8
Craighead	Grades 6-7
Dunbar	Grades 7-8
Eanes	Grades 7-8
Phillips	Grades 7-8
Prichard	Grades 6-8
Scarborough	Grades 6-8
Washington	Grades 7-8

II

AREA ATTENDANCE ZONES

The area attendance zones were drawn by the Court on a non-racial basis. The main considerations in drawing the zones were sound educational policies and geographical data of the metropolitan area. The area attendance zones may produce unforeseen educational problems. In such instances, the defendants may file with the Court, with copies to opposing counsel, a petition setting forth specifically the educational defect in the Court's zone or zones. The Court may rule on such petition without a formal evidentiary hearing.

Under the area attendance zones, the following schools are closed for the 1968-69 school year: Southside Junior High, Barney Elementary and Ellicott Elementary.

III

Transfers

Upon request, students may transfer from the school serving their attendance area to the school nearest their residence which serves their grade level, provided space is available, for one of the following reasons:

(a) Transfer shall be granted to a student whose race composes the student minority and such minority is five percent (5%) or less of the entire student enrollment of the school.

(b) Transfer shall be granted to a student who has one grade remaining in the school's grade level which he or she last attended and under the area attendance zone, would be required to attend a different school than the school last attended. The rule of proximity of school to residence shall not apply where the school last attended is not the nearest school to the student's residence.

(c) Transfers shall be granted to a student for good cause, other than (a) and (b) above. Racial matters shall not constitute good cause.

A time period for filing request for transfers shall be established by the defendant as soon as accurate enrollment figures are ascertained.

IV

Public Notice

The defendants shall publish the attendance area zones and the text of this decree in the newspaper of general circulation in Mobile County, Alabama, in the afternoon edition of the paper on July 31, 1968, the morning edition of August 2, 1968, and the morning edition of August 4, 1968. Copies of the attendance area zones and decree shall be posted in a conspicuous place in each elementary and junior high school in the urban system and in the office of the Superintendent of Education for public examination for the entire 1968-69 school term.

The defendants shall make available to the radio and television stations in Mobile County such information as will enable the general public to be fully informed as to the operation of the schools for the 1968-69 school term.

V

Reports

The defendants shall file with the Clerk of this Court and upon opposing counsel, on or before December 31, 1968, a report which shall contain the percentage of integration and the racial composition of each school operating under the area attendance zone plan as of December 16, 1968.

Done in Mobile, Alabama, this 29th day of July 1968.

Daniel H. Thomas
Chief Judge
United States District Court
Southern District of Alabama

DECREE

It is ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees and successors and all those in active concert and participation with them, be and they are permanently enjoined from discriminating on the basis of race or color in the operation of the school ssytem. As set out more particularly in the body of the decree they shall take affirmative action to disestablish all school segregation and to eliminate the effects of the dual school system:

I

DESEGREGATION

Commencing with the 1968-69 school year, in accordance with this decree, the schools and their grade level listed below, shall operate on a freedom of choice desegregation plan. All pupils entering the ninth or higher grade and eighth grade students residing in the Craighead and Carver attendance zones, shall exercise their choice of any school in the metropolitan system. Each reference hereafter to schools only means the schools and grades set out below. The provisions of this decree have no application to the desegregation plan of the rural schools of Mobile County.

Schools available to students who will enter the ninth or higher grade for the 1968-69 school year:

B. C. Rain	Grades 9-12
Blount	Grades 8-12
Central	Grades 9-12
Davidson	Grades 9-12

Hillsdale	9th Grade only
K. J. Clark	9th Grade only
Mae Eanes	9th Grade only
Mobile County Training School	Grades 9-12
Murphy	Grades 9-12
Prichard	9th Grade only
Shaw	Grades 9-12
Toulminville	Grades 10-12
Trinity Gardens	Grades 9-12
Vigor	Grades 10-12
Washington	9th Grade only
Williamson	Grades 8-12

Schools available to the students residing in the Craighead and Carver attendance area zones who will enter the eighth grade are:

Azalea Road	8th Grade only
Blount	Grades 8-12
B. C. Rain	Grades 8-12
Dunbar	8th Grade only
Eight Mile	8th Grade only
Hillsdale	Grades 8-9
K. J. Clark	Grades 8-9
Mae Eanes	Grades 8-9
Mobile County Training School	Grades 8-12
Prichard	Grades 8-9
Scarborough	8th Grade only
Sidney Phillips	8th Grade only
Washington	Grades 8-9
Williamson	Grades 8-12

EXERCISE OF CHOICE

(a) *Who May Exercise Choice.* A choice of schools may be exercised by a parent or other adult person serving as the student's parent. A student may exercise his own choice if he is exercising a choice for the ninth or higher grade. Such a choice by a student is controlling unless a different choice is exercised for him by his parent or other adult person serving as his parent during the choice period or at such later time as the student exercises a choice. Each reference in this decree to a student's exercising a choice means the exercise of the choice, as appropriate, by a parent or such other adult, or by the student himself.

(b) All students affected by this decree, both white and Negro shall be required to exercise a free choice of schools for the school year 1968-69.

(c) *Choice Period.* The period of exercising choice shall commence on August 5, 1968, and end August 16, 1968. The date for choice periods for subsequent years will be determined by the Court, dependent upon the continuation of the freedom of choice plan. No student or prospective student who exercises his choice within the choice period shall be given any preference because of the time within the period when such choice was exercised.

(d) *Mandatory Exercise of Choice.* A failure to exercise a choice within the choice period shall not preclude any student from exercising a choice at any time before he commences school for the year with respect to which the choice applies, but such choice may be subordinated to the choices of students who exercise choice before the expiration of the choice period. Any student who has not exercised his

choice of school within a week after school opens shall be assigned to the school nearest his home where space is available under standards for determining available space which shall be applied uniformly throughout the system.

(e) *Public Notice.* The defendants shall arrange for the conspicuous publication of a notice describing the provisions of this decree in the newspaper most generally circulated in the community. This notice must be published daily for a five day period preceding the choice period. Publication as a legal notice will not be sufficient. The text of the notice shall be substantially similar to the text of the explanatory letter to the parent. Copies of this notice must also be given promptly to all radio and TV stations located in the community. Copies of this decree shall be posted in each school and at the office of the Superintendent of Education.

(f) *Distribution of Explanatory Letters and Choice Forms.* On the first day and each day thereafter of the choice period explanatory letters and choice forms shall be distributed by hand at the schools and at the office of the Superintendent of Education, 504 Government Street. The choice forms and explanatory letter will be available from 7:00 A.M. to 12:00 A.M. and 1:00 P.M. to 5:30 P.M. each day of the choice period excluding Saturday and Sunday. Copies of the explanatory letter and choice forms shall be freely available to parents and students, prospective students and the general public at each school and at the office of the Superintendent of Education.

(g) *Contents of Choice Forms.* Each choice form shall set forth the name and the grades offered at each school

and may require of the person exercising the choice the names, address, age of student, school and grade currently or most recently attended by the student, the school chosen, the signature of one parent or other adult person serving as parent, or where appropriate, the signature of the student, and the identity of the person signing. No statement of reasons for a particular choice, or any other information, or any witness or other authentication, may be required or requested, without approval of the Court.

(h) *Return of Choice Form.* At the option of the person completing the choice form, the choice may be returned by mail, in person, or by messenger to any Junior High or Senior High School in the school system or to the office of the Superintendent.

(i) *Choices Not on Official Form.* The exercise of choice may also be made by the submission in like manner or any other writing which contains information sufficient to identify the student and indicates that he has made a choice of school.

(j) *Choice Forms Binding.* When a choice form has been submitted and the choice period has expired, the choice is binding for the entire school year and may not be changed except in cases of parents making different choices from their children under the conditions set forth in paragraph II(a) of this decree and in exceptional cases where, absent the consideration of race, a change is educationally called for or where compelling hardship is shown by the student. A change in family residence from one neighborhood to another shall be considered an exceptional case for purposes of this paragraph.

(k) *Preference in Assignment.* In assigning students to schools, no preferences shall be given to any student for prior attendance at a school, except when necessary, preference shall be given to students who choose to attend their previous school of attendance and have only one year remaining before completion of that school's grade level, and except with the approval of court in extraordinary circumstances, no choice shall be denied for any reason other than overcrowding. In the case of overcrowding at any school, preference shall be given on the basis of the proximity of the school to the homes of the students choosing it, without regard to race or color. Standards for determining overcrowding shall be applied uniformly throughout the system.

(l) *Second Choice Where First Choice is Denied.* Any student whose choice is denied must be promptly notified in writing and given his choice of any school in the school system serving his grade level where space is available. The student shall have seven days from the receipt of notice of a denial of first choice in which to exercise a second choice.

(m) *Transportation.* Where transportation is generally provided, buses must be routed to the maximum extent feasible in light of the geographic distribution of students, so as to serve each student choosing any school in the system. Every student choosing either the formerly predominantly white or the formerly predominantly Negro school nearest his residence must be transported to the school to which he is assigned under these provisions, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under gen-

erally applicable transportation rules and the School Board's transportation policy.

(n) *Officials Not to Influence Choice.* At no time shall any official, teacher, or employee of the school system influence any parent, or other adult person serving as a parent, or any student, in the exercise of a choice or favor or penalize any person because of a choice made. If the defendant school board employs professional guidance counselors, such persons shall base their guidance and counselling on the individual student's particular personal, academic, and vocational needs. Such guidance and counselling by teachers as well as professional guidance counselors shall be available to all students without regard to race or color.

(o) *Protection of Persons Exercising Choice.* Within their authority school officials are responsible for the protection of persons exercising rights under or otherwise effected by this decree. They shall, without delay, take appropriate action with regard to any student or staff member who interferes with the successful operation of the plan. Such interference shall include harassment, intimidation, threats, hostile words or acts, and similar behavior. The school board shall not publish, allow, or cause to be published, the names or addresses of pupils exercising rights or otherwise effected by this decree. If officials of the school system are not able to provide sufficient protection, they shall seek whatever assistance is necessary from other appropriate officials.

III

Prospective Students

Each prospective new student shall be required to exercise a choice of schools before or at the time of enrollment. All such students known to defendants shall be furnished a copy of the prescribed letter to parents, and choice form, by mail or in person, on the date the choice period opens or as soon thereafter as the school system learns that he plans to enroll. Where there is no pre-registration procedure for newly entering students, copies of the choice forms shall be available at the office of the Superintendent and at each school during the time the school is usually open.

IV

Transfers

(a) *Transfers for Students.* Any student shall have the right at the beginning of a new term, to transfer to any school from which he was excluded or would otherwise be excluded on account of his race or color.

(b) *Transfers for Special Needs.* Any student who requires a course of study not offered at the school to which he has been assigned may be permitted, upon his written application at the beginning of any school term or semester, to transfer to another school which offers courses for his special needs.

(c) *Transfers to Special Classes or Schools.* If the defendants operate and maintain special classes or schools for physically handicapped, mentally retarded, or gifted

children, the defendants may assign children to such schools or classes on a basis related to the function of the special class or school that is other than freedom of choice. In no event shall such assignments be made on the basis of race or color or in a manner which tends to perpetuate a dual school system based on race or color.

V

Report to the Court

The defendants shall serve upon the opposing parties and file with the Clerk of the Court, on or before December 16, 1968, a report tabulating by race the number of choice applications received for enrollment in each grade in each school in the system operating under the freedom of choice plan, and the number of choices and transfers granted and the number of denials in each grade of each school. The report shall also state any reasons relied upon in denying choice and shall tabulate by school and by race of student, the number of choices and transfers denied for each such reason.

The defendants shall in addition to the above information, report the racial composition of each grade (9-12) in each school operating under the freedom of choice plan, plus the name, address, and the name of school attended by the eighth grade students who exercised freedom of choice.

Done in Mobile, Alabama, the 29th day of July 1968.

Daniel H. Thomas
Chief Judge
United States District Court
Southern District of Alabama

District Court Opinion of July 29, 1968

MOBILE COUNTY PUBLIC SCHOOL SYSTEM
504 GOVERNMENT STREET

Dear Parent:

Every student who will be entering the ninth or higher grade, and those students who reside in the Carver and Craighead attendance zone area who will be entering the eighth grade, for the upcoming school year may choose to attend any school in our system.

It does not matter which school your child attended last year. You and your child may select any school listed on the attached choice form which serves your child's grade level. It does not matter if the school you choose was formerly predominantly white or Negro. A child enrolling in the school system for the first time *must* make a choice of schools before, or at the time of his enrollment.

The form on which the choice should be made is attached to this letter. It should be completed and returned by August 16, 1968. You may mail it, deliver it by messenger, or by hand, to any school on the list or to the Office of the Superintendent of Education at any time between August 5, 1968, and August 16, 1968. No one may require you to return your choice form before August 16, 1968, and no preference is given for returning the choice form early.

No principal, teacher or other school official is permitted to influence anyone in making a choice or to require early return of the choice form. No one is permitted to favor or penalize any student or other person because of a choice made. A choice once made cannot be changed except for serious hardship.

No child will be denied his choice unless for reasons of overcrowding at the school chosen, in which case children living nearest the school will have preference.

Your School Board and the school staff will do everything we can to see to it that the rights of all students are protected and that desegregation of our schools is carried out successfully.

Sincerely yours,

Superintendent

Enc:

CHOICE FORM

All students who will be entering the Ninth or higher grade and students who will be entering the Eighth grade who reside in the Carver and Craighead attendance zone areas, are eligible to choose any school he or she wishes to enter for the 1968-69 school term which offers the grade level to which he is eligible to enter. The names and grade levels of the available schools are listed below. Each student shall have a freedom of choice of the school he or she wishes to attend, without regard to the school attended last year, or whether or not the school he chooses was formerly or predominantly white or Negro. You have 12 days to make your choice. Each student must make a choice.

This form is for your use in making your choice and must be mailed or brought to the principal of any school listed below, or to the office of the Superintendent, located at 504 Government Street, by August 16, 1968.

District Court Opinion of July 29, 1968

Name of child .....
(Last) (First) (Middle)

Address .....

Name of Parent or other
adult serving as parent .....

Grade child is entering .....

School attended last year .....

For students entering the Ninth or higher grade the following schools and the grades they offer are set out below. Please check the school your child wishes to attend commencing the 1968-69 term.

.....B. C. Rain
(Grades 9-12)
.....Blount
(Grades 9-12)
.....Central
(Grades 9-12)
.....Davidson
(Grades 9-12)
.....Hillsdale
(9th grade only)
.....K. J. Clark
(9th grade only)
.....Mae Eanes
(9th grade only)
.....Mobile County
Training School
(Grades 9-12)
.....Murphy
(Grades 9-12)
.....Prichard
(9th grade only)
.....Shaw
(Grades 9-12)
.....Toulminville
(Grades 10-12)
.....Trinity Gardens
(Grades 9-12)
.....Vigor
(Grades 10-12)
.....Washington
(9th grade only)
.....Williamson
(Grades 9-12)

Schools available to the students residing in the Craighead and Carver attendance zone areas who will enter the Eighth grade are listed below. Please check the school your child wishes to attend commencing the 1968-69 term.

.....Azalae Road
.....Blount
.....B. C. Rain
.....Dunbar
.....Eight Mile
.....Hillsdale
.....K. J. Clark
.....Mae Eanes
.....Mobile County Training School
.....Prichard
.....Scarborough
.....Sidney Phillips
.....Washington
.....Williamson

District Court Order of August 2, 1968

On July 31, 1968, the plaintiff-intervenor United States filed a motion for modification of this Court's order dated July 29, 1968, and after consideration thereof, it appears to the Court that its order dated the 29th day of July 1968, does require modification and amendment thereof.

It is ORDERED, ADJUDGED and DECREED that the first portion of this Court's decree of July 29, 1968, is hereby modified and amended in the following respects:

1. The list of schools contained in Section I is amended to show the Owens School as serving Grades 1-6, to add the Mobile County Training School, which will serve Grades 6-8 and to add the Rain and Trinity Gardens Schools, which will serve Grades 7-8.

It is further ORDERED, ADJUDGED and DECREED that the second portion of this Court's decree of July 29, 1968, is hereby modified in the following respects:

1. By Striking Section V. entitled "REPORTS" and insert the following:

V.

SURVEYS

The defendant school board shall continue its survey for the purpose of obtaining sufficient data for future planning. Specifically, the defendants shall take the following steps:

(a) *Building and Sites* - A survey shall be made of all school buildings and all school sites. Based upon this survey the defendant superintendent shall prepare a detailed

report which shall be filed with the court and served upon each party no later than December 16, 1968. With respect to each site, this report shall include a detailed statement concerning its suitability, the feasibility of improving or expanding the site, a description of the building located on the sites, the suitability of each building, particularly with respect to fire hazards, construction defects, etc. and all other information necessary to a determination of the appropriate uses that could be made of the sites and buildings. This report shall also include the superintendent's recommendation with respect to the grades to be served at each site for the 1969-70 school year and his evaluation or alternative uses.

(b) *Student Census* - A student census, by race and grade, shall be conducted at the beginning of the 1968-69 school year for the metropolitan system. The defendant superintendent shall file with the court and serve upon each party no later than December 16, 1968, appropriate maps reflecting the results of the student census.

(c) *Long Range Plans* - On or before October 25, 1968, the defendant superintendent shall file with the court and serve upon each party an interim report with respect to that portion of the survey called for in paragraph IV.D.5 and IV.G. of this Court's order of May 13, 1968.

VI.

Reports

On the dates specified the defendant superintendent shall file with the Court and serve upon each party the following reports:

(a) *Enrollment* - On or before November 1, 1968, a report shall be submitted showing the number of students by school, grade and race actually enrolled at the school in Mobile County. The report shall also contain the racial composition of each school operating under the freedom of choice desegregation plan.

(b) *Faculty* - The report which under paragraph VI.A. of this Court's decree of May 13, 1968, was to be submitted on June 10, 1968. The defendants shall file with the Court and the opposing parties a progress report on the faculty on or before August 16, 1968, and a final report on September 16, 1968.

VII.

Recommendations for 1969-70 School Year

On or before December 31, 1968, the defendant school board shall submit to this Court and serve upon each party, maps containing proposed area attendance lines for use commencing with the 1969-70 school year and a statistical table showing the forecasted enrollment by race and grade for each school. These proposed attendance zones shall include all schools and grades in the metropolitan system, including the high schools.

In drawing the area attendance zones for 1969-70, the Court orders the defendant to draw the zones from the standpoint of achieving a uniform grade structure throughout the system. The Court recognizes that the transition from one grade structure to another may require more than one school term. Nevertheless, the Court directs the defen-

dant to act with the greatest expediency in achieving the maximum degree of uniformity possible for the 1969-70 school year.

As a further recommendation for the 1969-70 school year, the defendant is directed to program those school areas where "locked-in" segregation exists, to achieve the best utilization of the school facilities from an educational point of view, but in accordance with the provisions of this decree.

In its motion for modification, the plaintiff-intervenor United States moves the Court to adopt a pure freedom of choice for the rural schools for Mobile County. Pursuant to the mandate of the Fifth Circuit Court of Appeals and the motion of the United States of America, the Court adopts the freedom of choice desegregation plan for the rural schools in accordance with the following provisions.

Rural Schools

All students in the rural portion of the Mobile County school system shall be assigned to the schools in accordance with the provisions of the section of the decree entitled "Exercise of Choice," which shall be modified by the insertion of the Roman numeral II before the caption and which shall be amended for the rural schools only in the following respects:

II

Exercise of Choice

1. Subsection (c) shall be amended as follows: The period of exercising choice shall commence on August 19, 1968, and end on August 30, 1968.

2. Subsection (m) shall be amended by adding to the last sentence of the section: The policy of the defendant in regard to transportation in the rural areas is that transportation shall be provided if reasonably possible.

Except where the metropolitan system is specifically designated, all provisions of the decree entitled "Exercise of Choice" with the above amendments, shall apply to the rural schools in Mobile County.

Copies of the explanatory letter and the choice form are attached and made a part of this order.

DONE in Mobile, Alabama, this the 2nd day of August 1968.

DANIEL H. THOMAS
Chief Judge
United States District Court
Southern District of Alabama

EXPLANATORY LETTER

Dear Parent:

All schools and grades in our rural school system will operate on the freedom of choice desegregation plan for the upcoming school year. Any student who will be entering one of these grades next year may choose to attend any school in our system, regardless of whether that school was formerly all-white or all-Negro. It does not matter which school your child attended this year. You and your child may select any school you wish.

Every student white and Negro, must make a choice of schools. If a child is entering the ninth or higher grade,

he may make the choice himself. Otherwise a parent or other adult serving as parent must sign the choice form. A child enrolling in the school system for the first time must make a choice of schools before or at the time of this enrollment.

The form on which the choice should be made is attached to this letter. It should be completed and returned by August 30, 1968. You may mail it or deliver it by messenger or by hand to any school principal in the schools listed on the choice form or to the Office of the Superintendent, 504 Government Street, at any time between August 19, 1968, and August 30, 1968. No one may require you to return your choice form before August 30, 1968, and no preference is given for returning the choice form early.

No principal, teacher or other school official is permitted to influence anyone in making a choice or to require early return of the choice form. No one is permitted to favor or penalize any student or other persons because of a choice made. A choice once made cannot be changed except for serious hardship.

No child will be denied his choice unless for reasons of overcrowding at the school chosen, in which case children living nearest the school will have preference.

Transportation will be provided, if reasonably possible, no matter what school is chosen.

Your school board and the school staff will do everything we can to see to it that the rights of all students are protected and that desegregation of our schools is carried out successfully.

Yours very truly,

Superintendent

Enc.

District Court Order of August 2, 1968

CHOICE FORM

This form is provided for you to choose a school for your child to attend next year. You have 12 days to make your choice. It does not matter which school your child attended last year, and it does not matter whether the school you choose was formerly a white or Negro school. This form must be mailed or brought to the principal of any school listed below or to the Office of the Superintendent, 504 Government Street, by August 30, 1968. A choice is required for each child.

Name of child .....
(last) (first) (middle)

Address .....

Name of Parent or other
adult serving as parent .....

If child is entering first grade,
date of birth: .....
(Month) (Day) (Year)

School attended last year .....

Choose one of the following schools by marking an X beside the name:

.....Nelson Adams	Grades 1-12
.....Alba	Grades 1-12
.....Baker	Grades 1-12
.....Belsaw	Grades 1-8
.....Burroughs	Grades 1-6

.....Calcedeaver	Grades 1-12
.....Calvert	Grades 1-6
.....Citronelle	Grades 1-12
.....Dauphin Island	Grades 1-6
.....Davis	Grades 1-6
.....Dawes Union	Grades 1-6
.....Dixon	Grades 1-6
.....Griggs	Grades 1-6
.....Hollinger's Island	Grades 1-8
.....Robert E. Lee	Grades 1-6
.....Lott	Grades 1-12
.....Mobile County High	Grades 7-12
.....Mt. Vernon	Grades 1-8
.....St. Elmo	Grades 7-12
.....Saraland	Grades 1-6
.....Satsuma	Grades 7-12
.....Semmes	Grades 1-8
.....Tanner Williams	Grades 1-6
.....Wilmer	Grades 1-6

Signature .....

Date .....

To be filled in by Superintendent:

School Assigned .....

District Court Order of December 20, 1968

Pursuant to this Court's order and the mandate of the Fifth Circuit Court of Appeals, the defendant-School Board seeks the Court's approval for proposed building expansion for two existing school sites. The applications were filed on February 20, 1968 and April 22, 1968, respectively. The plaintiff and plaintiff-intervenor objected to the proposed construction and requested a special setting to determine if the plans were in compliance with the orders of this Court. This Court granted the request and this matter came on for hearing on the 7th day of May 1968.

At the hearing, the defendants offered evidence to prove that the existing facilities at the Howard Elementary School and the Toulminville High School were inadequate and outdated for present and future needs. The defendant showed that projected enrollment figures require additional and modern facilities. The Government and the plaintiff asserted that the new construction was racially motivated and would tend to promote segregation of the races in the particular school areas.

Now after consideration thereof,

The Court finds that the proposed expansion for the Howard Elementary School is indeed necessary and finds that such construction would not perpetuate segregation within the Howard area particularly when the proposed urban renewal plans of the City are taken into consideration. The Court hereby approves and authorizes the proposed Howard construction plans. The Court does find that the proposed construction in the Toulminville High School area would tend to serve a school area with one dominant

race, thus creating a "locked-in" segregation area, which this Court's order of July 29, 1968, expressly denounced.

Therefore, it is ORDERED, ADJUDGED and DECREED that the defendant's application for new construction in the Howard Elementary School is hereby GRANTED.

It is further ORDERED by the Court that the defendant's application for new construction for the Toulminville High School is hereby DENIED.

DONE this the 20th day of December 1968.

DANIEL H. THOMAS
United States District Judge

District Court Order of March 14, 1969

This matter comes before the Court on the motion of the defendant-school board requesting the Court to reconsider its order of December 20, 1968, in which the Court denied the school board's application for new construction for the Toulminville High School. The matter was set down for rehearing on March 7, 1969, and now after consideration thereof,

The Court finds that the proposed school for the Toulminville area will be located in the most logical, rational and economical site available. It is not disputed that the new school is necessary. The property has been acquired; the school will be centrally located; the site is convenient to traffic and bus routes; and the adjacent facilities (public library and playground) will contribute to the educational program.

The only objection of the plaintiffs and the plaintiff-intervenor is that the new school may be totally or at least predominantly Negro when completed. Such objection has as a premise, the supposition that the School Board will disregard its affirmative duty to disestablish the dual school system. The Court finds such a supposition faulty.

To deny new construction of the Toulminville High School at this time, in the opinion of the Court, would be inconsistent with proper operation of the school system as a whole.

Therefore, it is ORDERED, ADJUDGED and DECREED by the Court that the defendant school board's motion for reconsideration is GRANTED.

District Court Order of March 14, 1969

It is further ORDERED, ADJUDGED and DECREED by the Court that the application for new construction of the Toulminville High School is hereby GRANTED.

DONE at Mobile, Alabama, this the 14th day of March 1969.

DANIEL H. THOMAS
United States District Judge

Court of Appeals Order of March 20, 1969

Before BELL, GODBOLD and DYER, *Circuit Judges.*

By the Court:

IT IS ORDERED AS FOLLOWS:

Appellants' motions for injunction pending appeal, filed in the above causes, are hereby DENIED.

Appellants' motions for consolidation of the above appeals with Cause No. 26886, United States of America, Et Al v. Board of School Commissioners of Mobile County, Et Al, are hereby GRANTED.

The appellees shall give 30 days written notice to appellants before putting out for bids the construction of the proposed Howard School and the proposed Toulminville School.

The Clerk shall set a briefing schedule for the filing of briefs in the above causes which shall not extend or delay the hearing of the causes as consolidated with No. 26886.

District Court Order of April 7, 1969

On July 29, 1968, with an amendment on August 2, 1968, the Court entered a decree for the operation of the Mobile County Public School System for the school year, 1968-1969. The decree ordered the adoption of the freedom of choice desegregation plan for certain grades within the city system and all schools and grades within the county system. The grades not designated for freedom of choice within the city system were to operate under the area attendance zone desegregation plan, with the particular zones being drawn by the Court.

In the decree, the Court stated that the freedom of choice plan was to operate on an annual interim basis and that the attendance zones were subject to revision for subsequent years. The continuance of the plans was dependent upon the desegregation results.

In December 1968, pursuant to this Court's direction, the defendant-School Board filed certain reports stating the enrollment and racial composition of each school in the system. The reports reflect that meaningful desegregation has been accomplished and the effects of the once existent "dual school system" are being permanently disestablished. The Board also filed with the Court and upon opposing parties, maps illustrating the proposed area attendance zones for the school year 1969-70.

Now after consideration thereof and pursuant to this Court's continuing jurisdiction over the desegregation process of the Mobile County Public School System, the Court enters the following decree for the operation of the public schools for the school term, 1969-70.

District Court Order of April 7, 1969

DECREE

It is ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees and successors and all those in active concert and participation with them, be and they are permanently enjoined from discriminating on the basis of race or color in the operation of the school system. As set out more particularly in the body of the decree they shall take affirmative action to disestablish all school segregation and to eliminate the effects of the dual school system.

It is further ORDERED, ADJUDGED and DECREED by the Court that all rural schools and those grades and schools, as specified in this Court's decree of July 29, 1968, and amendment of August 2, 1968, shall continue to operate under the freedom of choice desegregation plan for the school year 1969-70.

Choice Period: The period for exercising choice shall commence on Monday, April 14, 1969, and end on Monday, May 12, 1969. No student or prospective student who exercises his choice within the choice period shall be given any preference because of the time within the period when such choice was exercised.

Distribution of Explanatory Letters and Choice Forms: On the first day and each day thereafter of the choice period, explanatory letters and choice forms shall be distributed by hand at the schools during regular school hours, 8:00 A.M. to 3:30 P.M. and at the office of the Superintendent of Education, 504 Government Street, during regular office hours, 8:00 A.M. to 4:30 P.M. In addition, the

choice forms and explanatory letter shall be hand distributed at the schools to all students who are eligible to make a choice for the 1969-70 school year during the first week of the choice period. The choice forms and explanatory letters shall be identical in form and substance as ordered by the Court in July 1968, except for necessary changes.

With the exception of Section V, styled "Surveys", all sections of the July 29, 1968, and August 2, 1968, decree pertaining to the operation of the freedom of choice desegregation plan shall remain in full force and effect for the school year, 1969-70. Such provisions include, but not limited to, publication, transfers, reports and assignment of students.

It is further ORDERED, ADJUDGED and DECREED by the Court that the area attendance zones as proposed by the School Board for the elementary and junior high grades within the city system, are hereby approved and adopted for the school year 1969-70.

All provisions of this Court's July 29, 1968, and August 2, 1968, decree pertaining to the area attendance zone desegregation plan shall remain in full force and effect for the 1969-70 school term. Such provisions include, but not limited to, publication, transfers and reports.

DONE at Mobile, Alabama, this the 7th day of April 1969.

DANIEL H. THOMAS
United States District Judge

Court of Appeals Order of May 6, 1969

Before BELL, GODBOLD and DYER, *Circuit Judges.*

By the Court:

IT IS ORDERED that appellant's motion for reconsideration of that portion of this Court's order of March 20, 1969, denying appellants' motions for injunction pending appeal in the above entitled and numbered causes be, and the same is hereby GRANTED, and appellants' motions for injunction pending appeal are GRANTED.

(Original filed May 6, 1969)

Court of Appeals Opinion of June 3, 1969

Before JOHN R. BROWN, *Chief Judge,* DYER, *Circuit Judge,* and HUNTER, *District Judge.*

Per Curiam:

In No. 26,886 the District Court on July 29, 1968, entered an order formulating attendance zone lines for grades 1-8 in the city portion of the Mobile School System, adopted freedom of choice in the high school system, permitted transfer from a school into which a student was zoned if the student was in a racial minority of less than five per-cent, and continued a freedom of choice plan in the rural areas.

In Nos. 27,260 and 27,491 the District Court on December 20, 1968, and March 14, 1969, approved construction plans for the Howard and Toulminville schools respectively.

We consolidated and expedited these appeals for oral argument.

It is apparent that the District Court relied wholly upon and gave literal interpretation to the directive in our decision of March 12, 1968, 5 Cir., 393 F.2d 690, that new attendance zones be drawn on a non-racial basis and ignored the unequivocal directive to make a conscious effort in locating attendance zones to desegregate and eliminate past segregation. The record shows and the statistics prove that the attendance zones formulated by the District Court are constitutionally insufficient and unacceptable, and such zones must be redrawn.

In approving a freedom of choice plan for high school students the District Court failed to follow the mandate in our opinion that no distinction was to be drawn between

elementary and high school students with respect to attendance zones, and that the same principles were to govern the assignment of students to secondary as to primary schools.

[1] A provision permitting transfers from racial majority to racial minority schools is entirely proper and should be included in a plan.

[2] The converse, transfers from racial minority to racial majority schools, permitted by the District Court, even when restricted to those instances when the racial minority is 5% or less, is erroneous. This is tantamount to an authorization to white students to resegregate and is impermissible as a means for the perpetration of segregation. Monroe v. Board of Commissioners, 1968, 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733; Goss v. Board of Education, 1963, 373 U.S. 683, 83 S.Ct. 1405, 10 L.Ed.2d 632.

[3] The freedom of choice plan for the rural schools approved by the District Court has singularly failed. Only about 6% of the rural Negro school population in Mobile County chose to attend traditionally white schools and no white children chose to attend traditionally Negro schools. Green v. County School Board, 1968, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716, makes it clear that freedom of choice was an impermissible desegregation plan here.

[4] With respect to the construction of new facilities in the Howard and Toulminville sites, whether these schools should be built as presently proposed, abandoned, or the location changed will largely depend on what the student demands will be after new attendance zones are established to eliminate past segregation. Until new attendance zones are formulated in accordance with this order, the order of

this court enjoining the construction of the Howard school and the Toulminville project will be continued in effect.

> Actually, the formulation of appropriate decrees in the cases before the Court present few, if any, justiciable issues of constitutional import. Such issues have been largely resolved. The difficulties involved in developing a proper decree concern basically practical operational questions and matters of educational administration. H.E.W., with its staff of trained educational experts "with their day to day experience with thousands of school systems", is far better qualified to deal with such operational and administrative problems than the Courts presided over by Judges, who, as one Court has phrased it, "do not have sufficient competence—they are not educators or school administrators—to know the right questions, much less the right answers." United States v. Jefferson County Board of Education, 5th Cir. 1966, 372 F.2d 836, 855; • • •.

Whittenberg v. Greenville County School District, etc. (D.S.C. March 31, 1969), 298 F.Supp. 784, 789, 790.

The orders of the District Court are reversed and the cases are remanded to the District Court with the following instructions:

1. This case shall receive the highest priority.

2. The District Court shall forthwith request the Office of Education of the United States Department of Health, Education and Welfare to collaborate with the Board of School Commissioners of Mobile County in the preparation

of a plan to fully and affirmatively desegregate all public schools in Mobile County, urban and rural, together with comprehensive recommendations for locating and designing new schools, and expanding and consolidating existing schools to assist in eradicating past discrimination and effecting desegregation. The District Court shall further require the School Board to make available to the Office of Education or its designees all requested information relating to the operation of the school district.

3. Proceed according to an expedited time schedule for the submission, review and approval of the plan, as follows:

(a) The board shall within 30 days of this order develop, in conjunction with the experts of the Office of Health, Education and Welfare, an acceptable plan of operation, conformable to the constitutional rights of the Negro students as we have delineated in this opinion.

(b) If such plan is agreed upon by the school board and the Office of Education within the time fixed, the Court will approve such plan, unless the plaintiffs within ten days make proper showing that the plan does not meet constitutional standards.

(c) If no such agreed plan is developed within 30 days, the Office of Education is requested to submit within 10 days its recommendation of a plan for the school district.

(d) The parties shall have ten days from the date a plan is filed with the District Court to file objections or suggested amendments thereto.

(e) For plans as to which objections are made or amendments suggested, or which in any event the District Court will not approve without hearing, the District Court shall commence hearings beginning no later than ten days after the time for filing objections has expired.

(f) A new plan for the district effective for the beginning of the 1969-70 school term shall be completed and approved by the District Court no later than August 1, 1969.

(g) The recommendations as to new construction shall be submitted to the District Court within 120 days of this order.

Because of the urgency of formulating and approving plans to be effective for the 1969-70 school term it is ordered as follows: The mandate of this court shall issue immediately and will not be stayed pending petitions for rehearing or certiorari. This court will not extend the time for filing petitions for rehearing or briefs in support of or in opposition thereto. Any appeals from orders or decrees of the District Court on remand shall be expedited. The record on appeal shall be lodged with this court and appellants' brief filed, all within ten days of the date of the order or decree of the district court from which the appeal is taken. Appellee's brief shall be due ten days thereafter. The court will determine the time and place for oral argument if allowed.

Reversed and remanded with directions.

Court of Appeals Opinion of June 3, 1969

HUNTER, *District Judge* (concurring):

In my judgment "non racial zoning" coupled with a majority to minority transfer provision would best serve the interests of all the school children in metropolitan Mobile. However, this court in its opinion of March 12, 1968, added a *caveat* to its instructions that attendance zones be based on objective criteria (393 F.2d at 694):

> "* * * conscious effort should be made to move boundary lines and change feeder patterns which tend to preserve segregation."

This is the law of the case and is consistent with recent decisions of the Fifth Circuit. United States v. Greenwood Municipal Separate District, 406 F.2d 1086 (5 Cir. Feb. 1969).

Students in the rural portion of the system have been assigned to schools on the basis of freedom of choice. In 29 consolidated cases involving factual settings very similar, I have held that Jefferson-type freedom of choice in Louisiana School Districts "had real prospects of dismantling the dual system at the earliest practicable date" and that this was the best method available to do the job. Conley v. Lake Charles Sch. Bd., W.D.La. 1968, 293 F.Supp. 84. These cases have been reversed. Hall et al. v. St. Helena Parish School Board, Nos. 26450 and 27303, May 28, 1969. There can be no doubt that Hall, supra, requires a holding here that as now constituted, administered and operating in the Mobile Public School System, freedom of choice is not effectual.

Court of Appeals Opinion of June 3, 1969

ON PETITION FOR REHEARING

Per Curiam:

It is ordered that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied, and the motion of appellees for a stay of execution and enforcement of the judgment is denied.

HUNTER, *District Judge:*

Under the total circumstances I would grant the petition for rehearing.

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

This plan for the beginning of desegregation of the schools of Mobile County is submitted pursuant to the order of the court entered July 11, 1963 as amended July 26, 1963. Said order contains a preliminary injunction requiring the beginning of desegregation by order of the United States Court of Appeals for the Fifth Circuit pending trial of the case and final decree.

The plan is presented after full consideration by the Board and in the light of the following facts, among others:

A. The Board is in the midst of an accelerated building program designed to remove the necessity of half day sessions and provide adequate housing for more than 75,000 pupils of grades 1-12 and to cope with a continuing annual pupil load increase of approximately 3,000 pupils.

B. The residential pattern is continually being reshaped, causing major changes in neighborhood patterns. These patterns are being further altered by the construction of new thoroughfares, I-65 and I-10, through the community, displacing between 1200 and 2000 residences; and

C. These changes have brought about the transfer of students within the system, the admission of new students, and the withdrawal of old students, and have created a major problem for the Mobile School System both within the central office of the Superintendent's staff and at the offices of the respective principals of the 89 local schools; and

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

D. The Board considers that any general or arbitrary reassignment of pupils presently in attendance at the 89 existing schools, according to any rigid rule of proximity to school or solely by request on the part of the parents of pupils, would be impractical and a disservice to the system, to the local schools, and to the pupils being transferred; such transfers would tend to overload some schools and leave other facilities in less than full use and at the same time result in an unbalanced teacher-pupil ratio throughout the system; and

E. The estimated enrollments for September, 1963 were developed last February and building and classroom capacity has been adjusted thereto; school supplies, textbooks, and other materials and equipment have been allocated accordingly; schools have been staffed and teachers assigned on the same estimated enrollments; and

F. Portable classrooms, half day sessions, makeshift rooms, and other emergency measures have been utilized as means of coping with the current pupil overload in the Mobile Public Schools, toward the end of providing seating space for the 75,000 pupils of 1962-63 and an estimated additional 3,000 pupils for September of 1963-64. These facts lead to the conclusion that great caution in continuous, system-wide study of facilities available, as well as other factors relating to educational policies governing admissions, transfers, and placement of pupils as are set forth in this document, is vitally essential to orderly procedures; and

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

G. The problems in connection with any desegregation of the schools outside the corporate limits of the City of Mobile are substantially different from the problems involved for desegregation within the City of Mobile and this plan is confined in its first year of operation to schools within the corporate limits of Mobile.

H. The number of pupils both white and negro in the first grade of schools in the City of Mobile for the year beginning in September 1963 will be approximately 8025 and the number in the 12th grade in the city schools will be 3836.

I. The school year 1963-64 begins on September 4, 1963.

J. In the judgment of the Board it is not practicable, on account of the short space of time remaining, to consider individual applications in behalf of negro pupils for assignment or transfer to schools which have been attended only by pupils of the white race except applications pertaining to one grade only, for the school year commencing September 4, 1963; and

It is the judgment of the School Board that it is for the best interests of the pupils of all grades and the orderly and efficient operation of the Mobile School system that the 12th grade be selected as the grade for the processing of such transfers for the school year 1963-64 and that transfers and assignments pertaining to any other grade cannot as a practical matter be granted for the term commencing in September, 1963.

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

The Board, therefore, proposes the following plan, pursuant to the said order of the Court:

(1) *Assignments:* All existing school assignments shall continue without change except when transfers are authorized by the Assistant Superintendent in Charge of Pupil Personnel under the provisions of this plan. Pupils entering the first grade, when the plan shall have become applicable thereto, and pupils otherwise entering the school system for the first time, when the plan shall have become applicable to the grade entered, shall be assigned without regard to race, as is provided hereinafter.

(2) *Transfers:*

(A) Parents or guardians of pupils in grades to which this plan shall have become applicable, wishing school assignment for the pupils other than as previously assigned or as pre-registered, may make application to that end between April 1 and April 15 of each year for transfer for the next succeeding school year. After 1963, such period shall replace the normal July 31st cut-off date for transfer applications of former years.

(B) Designation of Assistant Superintendent: In the assignment, transfer or continuance of pupils to specific schools, subject to the supervision and review by the Superintendent and Board, the Assistant Superintendent in charge of Pupil Personnel shall be charged with the responsibility for and the assignment of pupil admission by transfer and by original enrollment.

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

(C) Transfer Requests: Applications for transfer or initial assignment shall be in writing on forms prescribed and supplied by the Board. The proper forms will be furnished to parents of pupils on request. Separate Applications must be filed for each pupil for whom an assignment or transfer is requested.

(D) Pupil Placement Act Criteria Used: For the grade or grades as to which this plan is effective, race or color of the pupil shall not be a factor in assignment or the granting of transfer, but the following criteria shall be considered in making the assignment or granting the requested transfer, along with other relevant factors: (a) available room at the school to which transfer or assignment is requested; (b) the availability of transportation facilities; (c) suitability of established curricula for particular pupils; (d) the choice and interests of the pupil; (e) the request or consent of parents or guardians and the reasons assigned therefor; (f) the effect of the admission of new pupils upon established or proposed academic programs; (g) the adequacy of the pupil's academic preparation for admission to a particular school and curriculum; (h) the scholastic aptitude and relative intelligence, or mental energy or ability of the pupil; (i) the psychological qualification of the pupil for the type of teaching and associations involved; (j) the effect of admission of the pupil upon the academic progress of other students in a particular school or facility thereof; (k) the effect of admission upon prevailing academic standards at a particular school;

(l) the possibility or threat of friction or disorder among pupils or others; (m) the psychological effect upon the pupils in attendance at a particular school; (n) the possibility of breaches of the peace or ill will or economic retaliation within the community; (o) the home environment of the pupil; (p) the maintenance or severance of established social and psychological relationships with other pupils and with teachers; (q) the morals, conduct, health and personal standards of the pupil.

(E) *Tests and Interviews*: The Assistant Superintendent in Charge of Pupil Personnel may require interviews with the parents or guardian and the pupil, with the parents or guardian, or with other persons. He may conduct or authorize such examinations or tests and other investigations as he deems appropriate. In the absence of excuses satisfactory to the Pupil Personnel Office, failure to appear for any requested examination, test, or interview by the pupil or parents or guardian, will be deemed a withdrawal of the application.

(F) *Notice of Action Taken*: Notice of the action taken by the Assistant Superintendent in Charge of Pupil Personnel on each application will be made on or before June 15. For the school year 1963-64 the notice of action taken by the Assistant Superintendent will be made on or before September 3. Such action shall be final, unless a Board hearing is requested in writing within ten days from the date when the notice of action taken on the transfer request is mailed.

Plan Submitted by the Board of School Commissioners of Mobile County on August 19, 1963

(G) *Review*: If a hearing is requested by the parents or guardian or the Board feels a need for a hearing, such a hearing shall allow for a minimum of ten days notice, but will be held within twenty days. Failure of parents or guardians to appear, with the pupil, at the hearing will be deemed a withdrawal of the application. Hearings may be conducted by the Board as a whole, or the Board may designate not less than three Board members to conduct the hearing. In either case, the majority decision of the Board or the committee of the Board will be deemed a final decision. The Board may designate a Board member or other competent representative to conduct such a hearing, take testimony, and report evidence with his recommendation to the Board within fifteen days following the hearing. The Board's decision after a hearing, report of evidence, and recommendation will be deemed final. The Board shall be authorized to investigate objections or problems relating to the decision at hand, including an examination of the pupil involved, or the Board may authorize its administrative staff or other competent person to perform this investigation for them. If the Board determines that a pupil is physically or mentally incapacitated to benefit from further normal schooling, the Board may assign the pupil to an exceptional class or to some available special school, or terminate the enrollment of said pupil.

(3) *Initial Assignments*: When this plan shall have become applicable to the first grade, pupils registering for the first grade may apply for attendance at the school in

the district of their residence or the nearest school formerly attended exclusively by their race, at their option.

Pupils entering the Mobile County school system for the first time, in grades to which the plan has become applicable, may apply for attendance at the school in the district of their residence, or the nearest school formerly attended exclusively by their race, at their option.

Upon the submission of this plan, schools shall no longer be designated by race.

(4) *Applicability of Plan*: This plan shall have application in the school year 1963-64 to the 12th grade, in the City of Mobile schools only. In the school year 1964-65 it shall have application to the 11th and 12 grades in all schools of Mobile County. It shall have application to grades already included and to one additional lower grade each school year thereafter until all 12 grades are affected.

(5) *Special Provisions for 1963-64*: The normal July 31 cut-off date for making applications for transfer for the 1963-64 school term shall be observed. For 12th grade pupils in the City of Mobile schools requesting transfer on or before July 31, the transfer provisions of this plan shall apply and race or color shall not be considered as a factor in acting upon such application. Public notice of the deadline was given by publication in a daily newspaper of general circulation in Mobile County one week prior to the closing of the period for receiving transfer applications, as a conscious reminder to the parents and guardians.

BOARD OF SCHOOL COMMISSIONERS
OF MOBILE COUNTY

201a

Plaintiffs' Exhibit No. 6 at July 1967 Hearing

METROPOLITAN AREA	NUMBER OF STUDENTS TRANSPORTED (1966-67) NEGRO	WHITE	ATTENDANCE AREAS UPON WHICH STUDENTS ARE TRANSPORTED
Adams	80		Saraland & Satsuma (discon't. for 1967-1968)
Azalea Road		721	Area served by Azalea Road
Blanville		29	Special Education Students
Blount	49		Thomas area
Central	99		Area served by Central & Austin (Austin discon't. for 1967-1968)
Clark		378	Area served by Clark
Craighead		269	S. Brookley & S. Morningside
Davidson		977	Area served by Davidson
Dickson		115	Dodge (discon't. for 1967-1968)
Eight Mile		121	Area served by Eight Mile
Hall	126		S. Brookley & Shepard (Shepard discon't. for 1967-1968)
Hillsdale	18		Semmes & Orchard (discon't. for 1967-1968)
Mobile Co. Trng.	582		Satsuma & Saraland (discon't. for 1967-1968)
Old Shell Road		43	Griggs (discon't. for 1967-1968)
Orchard		190	Semmes (Some will be discon't. for 1967-1968)
Prichard Jr. High		110	Area served by Prichard
Rain		435	Area served by Rain
Russell		84	Special Education Students, school closed for 1967-1968)
Shaw		650	Area served by Shaw
Shepard		293	Area served by Shepard
Toulminville	75		Area served by Toulminville and Austin (Austin discon't. for 1967-1968)
Vigor		649	Area served by Vigor

Plaintiffs' Exhibit No. 6 at July 1967 Hearing

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METROPOLITAN AREA	NUMBER OF STUDENTS TRANSPORTED (1966-67) NEGRO	WHITE	ATTENDANCE AREAS UPON WHICH STUDENTS ARE TRANSPORTED
*** Warren	21		Austin area (discon't. for 1967-1968)
*** Washington	360		Area served by Washington and Austin (Austin discon't for 1967-1968)
* Whistler		215	E. Parks (No school is ava
Mill		237	Beau Terre (No school is a
*** Williamson	94		S. Brookley & Shepard (Bo discon't. for 1967-196
* Woodcock	8	93	Brookley Air Force Base

RURAL AREA	NUMBER OF STUDENTS TRANSPORTED (1966-67) NEGRO	WHITE	(RURAL SCHOOLS HAVE NO GEOGRAPHIC ATTENDANCE AREAS)
Alba		734	
Baker		945	
Belsaw	239		
Burroughs	100		
Calcedeaver		264	
* Citronelle		641	
Cleveland	198		
Dauphin Island		39	
Davis		493	
Dawes Union	150		
Dixon	356		
Griggs		342	
Hollinger's Island		298	
Indian Springs		271	
Lee		405	
Lott	726		

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BUS AREA	NUMBER OF STUDENTS TRANSPORTED (1966-67) NEGRO	WHITE	(RURAL SCHOOLS HAVE NO GEOGRAPHIC ATTENDANCE AREAS)
*Bibb County High		899	
*Montgomery		426	
*E. Verona		86	
Mint Hill	722		
Bessemer		938	
*Jemison		981	
Tanner Williams		278	
*Woodlawn	1	1310	
Kempton	31		
*Elmore		272	

* It is anticipated that these schools starred ones will have desegregated bus service in 1967-1968. It is impossible to project numbers with accuracy at this time.

* Busing will be discontinued in 1967-1968

* Busing will be partially discontinued in 1967-1968

Plaintiffs' Exhibit No. 24 at July 1967 Hearing

COPY

February 17, 1967

BOARD AGENDA ITEM

From: Mr. Shout

TRANSPORTED ELEMENTARY CHILDREN IN THE METROPOLITAN AREA: The Pupil Personnel Office has studied the geographical location of elementary school buildings within each metropolitan area including Mobile, Chickasaw, and Prichard. This study was conducted for the purpose of determining the distance that children have to travel who live at the furthermost point in each attendance area from the school which they attend. Time did not permit a comprehensive survey or having maps prepared by individual schools which would have determined the exact location of the residence of each pupil in attendance at a particular school. The distance from each school was determined by measurement in accord with the scale to which the map was drawn. The criteria used in all cases was the greatest distance that Russell pupils would be required to travel during the next school year in order to get to the Leinkauf School and back home.

Set forth below is a summary of schools serving elementary children who have to travel at least as far or farther than will the pupils formerly attending Russell.

I. Schools where elementary children reside within the attendance area but have no public school bus transportation provided:

Plaintiffs' Exhibit No. 24 at July 1967 Hearing

A. Austin School—Pupils residing as far or farther from school as the formerly Russell pupils are not in the same socio-economic situation.

II. Schools where elementary school children reside outside the attendance area and no public bus transportation is provided but because of approved earlier patterns of school attendance or the closing of a school and re-assignment do not attend the school serving the area of their residence.

A. Old Shell Road (pupils from the Toulminville area)

Previously the Board denied the request of the Toulminville group for public bus transportation to the Old Shell Road School.

B. Hall School—Pupils residing in the Texas Street area.

C. Leinkauf—Pupils re-assigned from Russell.

III. Schools where elementary children are now furnished public school bus transportation from out-of-district attendance areas as approved by the Board.

A. Warren—Negro pupils residing in the Austin area.

B. Hillsdale—Negro students residing in the Semmes area.

C. Hall—Negro pupils residing in the Kate Shepard area and Negro pupils residing in the South Brookley area.

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D. Craighead—Pupils residing in the South Brookley attendance area and pupils residing in the South Morningside area.

IV. Schools where elementary children are presently being transported by public school bus from out-of-district attendance area approved by the Board but will not be transported by public school bus transportation during the 1967-68 school year.

A. Dickson—Pupils who reside in the Fonde attendance area.

B. Old Shell Road—Pupils who reside in the Cypress Shores-Todd Acres area.

V. Schools where elementary children have been granted transfers from out-of-district or have elected to exercise options as provided for under policy.

A. There was no way to make an estimate within such a short period of time as to the number of pupils who live as far or farther from the school that they attend than those pupils formerly assigned to Russell School.

B. Based on present policy none of these out-of-district children are being furnished public school bus transportation.

In considering providing public school bus transportation for those pupils re-assigned from Russell to Leinkauf or for those pupils attending other schools listed in this re-

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port, the Board would also need to consider another related problem. If the Board approves transporting by public school bus those pupils from Russell to Leinkauf or those pupils from other schools listed in this report, they must decide if they are going to provide transportation for those pupils residing in the metropolitan attendance area who elect to attend an out-of-district school by the exercising of an option as provided for under present Board policy. It is recommended by the Pupil Personnel Division that public school bus transportation should not be expanded to include pupils residing in the metropolitan areas because our present Court Plan and Board policy do not include provisions for this type of service. Neither does our Court Plan or present policies provide for this type of service to be offered to those students who are attending school out-of-district either by approved transfer or option. With the exception of the Austin School there are no children including those formerly assigned to Russell School who reside within the attendance area of the school to which they are assigned that are two miles or more from that school. Pupils who do reside a greater distance are out-of-district pupils who have elected by previously established approved patterns of attendance, by transfer, or by option to attend an out-of-district school.

/s/ Sam H. Shout

SHS/tlp

Plaintiff-Intervenor's Exhibit No. 64 at July 1967 Hearing

[Map Omitted—See Original Record]

Plaintiff-Intervenor's Exhibit No. 64 at July 1967 Hearing

Report on Research of the Pupil Personnel Office for Use in Planning for the Full Utilization of School Facilities in the Downtown Area

During the past several years there has been an increase in the shifting of population from the downtown area and also within the downtown area with many schools increasing in enrollment while others have shown a decrease. Because of this it was felt that a study of the downtown area was necessary with the purpose in mind of reviewing what has been happening concerning the student population and to look at the developments that have taken place and are planned that would affect the school enrollment in this area of Mobile.

It was suggested that a report on alternatives which might merit consideration in making a full utilization of the public school facilities in this area be made. For the purpose of this study, the schools included were those in the city of Mobile east of the I-65 Highway and north of the I-10 Highway. We excluded the Morningside School attendance area. Morningside was excluded because the students completing elementary there will go to Azalea Road and Davidson for Grades 7 through 12.

Enrollment Trends

The enrollments of the schools during the school years 1962-63 through 1966-67 were used to see what the trend has been. The students who are assigned and transported to the schools in this area from other areas of Mobile County have been excluded from the enrollments for each school. The students transported out of this area by the Board during this period have been added.

The following is a table showing the enrollments in the different schools and the trend that has developed.

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FORMERLY WHITE SCHOOLS ENROLLMENTS

School	1962-63 Elem.	1962-63 Jr.	1962-63 Sr.	1963-64 Elem.	1963-64 Jr.	1963-64 Sr.	1964-65 Elem.	1964-65 Jr.	1964-65 Sr.	1965-66 Elem.	1965-66 Jr.	1965-66 Sr.	1966-67 Elem.	1966-67 Jr.	1966-67 Sr.
Arlington	299			242			400			396			358		
Barton		854			673			531			Closed			Closed	
Craighead	571			611			432			397			317		
Crichton	631			648			642			641	108		569	97	
Esnes		1248			894			1038			1136			1061	
Evans	421			410			405			328			330	39	
Gorgas	836			635			520			274	166		Closed ---		
Leinkauf	433	62		415	57		364	53		311	64		304	34	
Maryvale	959			915			793			729			628		
Mertz	611			639			630			577			527		
Murphy			3219			2983			2921			2732			2413
Oakdale	351	73		279	48		Closed---			---			---		
Old Shell Road	365			333			328			312	59		553	102	
Phillips		1273			1175			1166			1283			1264	
Russell	312			315			292			268			259	29	
Toulminville		465			384	112		295	177	Closed ---					
Westlawn	524			523			495			493			493		
Woodcock	621			614			575			540	60		476	44	
TOTAL	6934	3975	3219	6579	3231	3095	5876	3083	3098	5266	2876	2732	4814	2670	2413

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FORMERLY NEGRO SCHOOLS ENROLLMENTS

Schools	1962-63			1963-64			1964-65			1965-66			1966-67		
	Elem.	Jr.	Sr.	Elem.	Jr.	Sr.	Elem.	Jr.	Sr.	Elem.	Jr.	Sr.	Elem.	Jr.	Sr.
Caldwell	801			827			683			650			601		
Central			1675			1749			1840			1917			1428
Council	806			781			773			772			748		
Dunbar		1173			1252			1152			1116			1111	
Emerson	683	624		590			605			629			643		
Fonvielle	1286			1357			1319			1600			1117		
Gorgas													964		
Hall										913			1036		
Howard	629			617			658			684			665		
Owens	1587			1604			1770			1625			1433		
Palmer				269			273						---	---	---
Southside					607			582			534			497	
Stanton Road	434			774			1053			1187			1059		
Toulminville															623
Warren	441			458			447			424			408		
Washington	261	930			1170			1284			1355			1503	
Williamson	816	427	449	857	385	585		391	786		383	761		532	752
TOTALS	7744	3154	2124	8134	3414	2334	7581	5409	2626	8484	3388	2678	8674	3643	2803

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It should be noted that from 1962-63 to 1966-67 the formerly white schools have consistently decreased in enrollment: Elementary 2120 (6934-4814), Junior High School 1305 (3975-2670), and Senior High School 806 (3219-2413). Total decreased in formerly white schools is 4231. The formerly Negro schools during the same period showed an increase: Elementary 930 (8674-7744), Junior High School 489 (3643-3154), and Senior High School 679 (2803-2124). Total increased in formerly Negro schools is 2098.

Changes Made in Availability of Facilities

During the period 1962-63 through 1966-67, the Oakdale Elementary School and the Barton Junior High School were discontinued as schools. An eight-room annex to the Owens Elementary School and five rooms at Howard (Northside) were destroyed by fire, and 15 classrooms at Williamson were destroyed by vandalism. The size of the school at Maryvale was reduced from thirty classrooms to 18 classrooms by the construction of a new school building. The Gorgas and Toulminville school buildings were closed but later re-opened as predominantly Negro schools. During the same period George Hall Elementary School was constructed, and additions were added at Stanton Road and Mae Eanes.

Present Availability of Classrooms

There are at the present time in the formerly white schools 23 vacant elementary classrooms and space to accommodate additional students at Murphy High School and Mae Eanes Junior High School.

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Phillips Junior High School is overcrowded. There are six portable classrooms being used at schools in this area: one at Mertz, one at Old Shell Road, and four at Phillips. We are now accommodating *nine* classrooms of elementary students transported to Craighead and Old Shell Road from the South Brookley, and the Cypress Shores and Todd Acres areas. We are also providing for *twelve* classrooms of junior high school students in the elementary schools of the downtown area. If the transportation of students into this area and the housing of junior high school children in the elementary schools should be discontinued at some time in the future, there should be an additional 21 vacant classrooms available on the basis of our present enrollment. This would mean a total of 44 elementary classrooms would become vacant and this number could increase if present trends in enrollment continue.

There are at the present time 10 vacant classrooms in the formerly Negro elementary schools of this area. There are now 39 portable classrooms being used to relieve crowded conditions at seven of the formerly Negro schools and in two or three places additional portables are needed. We are accommodating *eight* classrooms of students transported to Hall and Williamson from the South Brookley and Lloyd Station areas. In four schools (Southside, Emerson, Howard and Williamson), there is at the present time a need to replace part or all of the available facilities.

Plans Approved or Recommended:

The following building programs have been approved by the Board or have been recommended for consideration:

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1. Construction of a thirty teacher school at Howard to replace the present facility and portables and to provide relief for Caldwell and Owens.
2. Construction of an addition to Williamson High School to replace all substandard facilities and portables.
3. Construction of a new elementary school to replace the present Emerson building and provide relief for Council School.
4. Construction of a new junior high school to replace the present Southside building.
5. Construction of a new senior high school in the Toulminville area to relieve Central and release the present building to be used for a junior high school to relieve Washington.

The above new construction will relieve 35 of the 39 portables now in use in the formerly Negro schools of this area. The remaining four portables are assigned to Stanton Road and Gorgas Schools. If the enrollment trend in the Toulminville area continues, there will be an increased need for relief in this area.

Developments Planned By Other Agencies

Other proposed developments which would have an effect on school population and the need for facilities have been discussed with the Mobile Housing Board, the Mobile City Planning Commission, and Mobile State Junior College.

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According to information which has been furnished to the Pupil Personnel Office by the Mobile Housing Board, at the present time three major projects are being developed in the downtown area. Others will be developed in the future.

Michigan Avenue Project (Project Alabama 2-10)

This project will contain 450 dwelling units with 212 units reserved for elderly families and 238 units for regular family occupancy. It is estimated that there will be about 500 children in the project. It is estimated that of these children 150 will be pre-school age, 200 elementary, and 150 junior high and senior high students. It should be assumed that many of the families moving into the project housing are at the present time residents of the downtown area, and only part of the students would represent growth for the general area. It would mean though that we would have some shifting of population which will result in vacant classrooms being shifted from one school to another.

The Central-Texas Street Project (Project Alabama R-38)

According to the Housing Board, there will be fewer families in the Central-Texas Street area after redevelopment, but the number of children to be served by the schools probably will remain about the same as it is at the present time. This is because the average family in public housing units will have more children of school age.

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Water Street Project (Project Alabama R-34)

The acquisition of houses in the Water Street Project area has resulted in a decrease in the number of children in the area at the present time, but it is anticipated by the Housing Board that the number of school age children will increase after the project has been completed.

The Mobile City Planning Commission's zoning regulations for this downtown area are expected to result in some increase in the population inside Broad, Beauregard, and Canal Streets. They are attempting to promote the redevelopment of some of the residential areas into desirable neighborhoods. The street plans, when completed, will result in some major changes in the traffic patterns and may make it necessary to re-design some of the school attendance areas in order to prevent children having to cross major streets to attend school.

A conference was held with Mr. Bishop, president of Mobile State Junior College, concerning their plans for the expansion of their present facilities. Mr. Bishop indicated that he plans to request of the Board of School Commissioners that the Caldwell School building located adjacent to the college campus be sold to the college for use in their expansion program. It seems that the college is at the present time in need of additional facilities to accommodate the students enrolled.

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Suggestions For Maximum Utilization of Facilities In the Downtown Area

ALTERNATIVE I

As reported to Dr. Burns in an earlier report, Augusta Evans' enrollment held up until the last year and estimated for next year. The drop seems to have resulted because of two major factors. First, the area served by Evans is about completely developed and the children of the residents are in higher grade levels with few young couples with younger children moving into the area. Second, much of the enrollment over the past few years has been made up of out-of-area children. With a decline in enrollments in areas such as Mertz, Woodcock, Westlawn so that the schools in those areas can adequately house the children, the new addition of Fonde, and the construction of John Will relieving Crichton of the Forest Hill Area children has resulted in a reduction in the number of transfer requests each year to attend Evans and has increased the requests to return to the school in the area of the residence. For example—In 1962-63 a total of 106 transfer requests were granted to Evans and in 1966-67 only 18 has been requested and granted.

In reviewing the census reports, it was determined that 205 children of elementary school age reside in the Evans School attendance area. The report shows only 100 pre-school age children ages 2 to 5, in this same attendance area. It would be anticipated that many of these pre-school age children would enroll in either private or parochial schools upon attaining school age. These figures are not completely accurate in that it is possible that some residents were not contacted by the census takers. However, assum-

intiff-Intervenor's Exhibit No. 64 at July 1967 Hearing

the census information is reasonably accurate, we ulate that approximately 82 pupils out of a total of 367 ils enrolled at Augusta Evans are out-of-district pupils. he Augusta Evans building has 12 classrooms now being d to serve grades 1-7. The following suggestions are red for consideration in regard to the re-assignment of ils now attending the Evans School. If approved, the gested plan would enable us to make better utilization not only the Evans School but several other schools luded in our downtown area study.

Pupils enrolled in grade 7 at Augusta Evans would be assigned to the 7th grade at Sidney Phillips. Pupils olled in grades 1-6 would be re-assigned to either Old ell Road, Crichton, or Westlawn depending on the graphical location of the residence of their parents. t-of-district pupils would be re-assigned to either the ool serving their attendance area or the school approved them by transfer request during the April 1-15 transfer riod. This action would permit using the Augusta Evans ilding to accommodate special education classes from aighead, Crichton, and Russell and at least two physi- ly handicapped classes to be organized by the Division of rriculum and Instruction. The Evans building is operly located and constructed to serve adequately as a ool for special education and the physically handicapped. addition, this plan would permit the re-assignment of ose pupils housed in the Russell School in regular classes grades 1-6 to either Woodcock or Leinkauf depending the geographical location of the residence of their rents. Support for this alternative is indicated in the port on the conference with the Augusta Evans delega- on as reported in the attached report.

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This would eliminate the need for continued operation of the Russell School. Pupils in grade 7 at the Leinkauf, Crichton and Old Shell Road Schools would be re-assigned to Sidney Phillips and those in the Woodcock and the Russell Schools to Mae Eanes.

In order to accommodate these additional 7th grade pupils at Sidney Phillips, it is proposed that the 9th grade pupils at Sidney Phillips School be re-assigned to Murphy High School, thereby making Murphy a four-grade school. This would accomplish five desirable goals: (1) to fully utilize the existing facilities at Murphy and Augusta Evans (2) to eliminate having 7th grade students housed in elementary schools included in this study (3) to eliminate operation of Russell School (4) to eliminate the portable buildings presently assigned to Sidney Phillips, and (5) to provide for more adequate facilities for special education and physically handicapped pupils.

Consideration could be given to the use of the Russell School to temporarily house the administrative offices during the renovation of the Barton building.

Since the Oakdale School is presently being used for storing of furniture, consideration could be given to the continued use of this facility for this purpose until final decisions have been made concerning the long range plan for furniture storage and finalizing plans on the Emerson and Southside Schools or consideration could be given to disposing of the property at this time.

If these suggestions are met with favorable consideration, it will be necessary that approval be given for a survey to be conducted in most of those schools involved in either losing or gaining students for the purpose of collecting

Plaintiff-Intervenor's Exhibit No. 64 at July 1967 Hearing

empirical data to be utilized in planning for implementation of the above mentioned changes.

Long range it may be possible to consider the re-assignment of 9th grade pupils from Mae Eanes to Murphy.

Successful acquisition of the Caldwell School by the Mobile State Junior College will make it necessary to plan for the construction of a new predominantly Negro elementary school to serve that area.

ALTERNATIVE II

If the decision is made to retain the 9th grade pupils at Phillips and not to organize a school for special education and physically handicapped at Augusta Evans, the following proposal might be considered. Leave the special education classes in those schools to which they are presently assigned. All students in grades 1-6 at Evans will be re-assigned to either Crichton, Westlawn or Old Shell Road School based on the geographical location of the residence of their parents. All junior high pupils presently housed in elementary schools except ⅔ of those attending Woodcock and all of those attending Russell would be re-assigned to the Evans School. Approximately ⅔ of the junior high students at Woodcock and all of those at Russell will be re-assigned to Mae Eanes, thereby eliminating having junior high pupils housed in elementary schools in the downtown area. This would provide for approximately 262 7th grade pupils to be accommodated in the new junior high school organized at Evans. There would be a need to continue the use of portables at Phillips Junior High School or consider the construction of new permanent classrooms to accommodate those pupils presently housed in the portables at Phillips.

Plaintiff-Intervenor's Exhibit No. 64 at July 1967 Hearing

ALTERNATIVE III

Re-assign the 7th grade pupils at Evans to Phillips or either to Crichton, Old Shell Road or Westlawn depending on the geographical location of the residence of their parents. Re-assign the pupils in grades 1-6 at Evans to either Crichton, Westlawn or Old Shell Road depending on the geographical location of the residence of their parents.

Use the Augusta Evans building to temporarily house the administrative offices during the period of renovation of the Barton building. The future use of the Evans School could be decided upon during the next school year.

ALTERNATIVE IV

Permit all pupils to attend those schools in the downtown area to which they are presently assigned and utilize the vacant classrooms in the downtown schools by transporting in pupils from overcrowded schools when portable classrooms are not available to those schools.

In regard to the inquiry that was made by members of the Board as it appeared in the Board Minutes of October 12, 1966, it is felt that the decision concerning future needs of additional property at the Augusta Evans School will of a necessity need to be delayed until final decisions are made concerning the report of the downtown area schools.

Plaintiff-Intervenor's Exhibit No. 72
at July 1967 Hearing

May 1, 1963

MEMO: Dr. Burns

FROM: Dr. Scarborough

RE: Your memo of April 26—Neece Property in the Snug Harbor area.

The population in Prichard is fairly well stabilized by now it appears, so far as the total population is concerned. It appears to me that our difficulty lies not in too many or not enough schools, but in the matter in having the schools adjusted to the Negro or white population. With the addition of this new Prichard building for the Negroes, north of Carver School, and the use of Snug Harbor and Turnerville School for Negro schools that for some time this would meet the needs of the population of the Negroes from Telegraph Road to St. Stephens Road and from the Prichard City Limits northward to Highway I-65.

If the Board is to go along with permanent use of Snug Harbor and Turnerville for housing Negro children and by the building of the new Prichard Elementary School, north of Carver, I think you can see that they are fairly well housed. It is my opinion that if more Negroes move in that area we again would have to abandon another white school and that it in turn could house the increase of Negroes in a school between Craft Highway and Telegraph Road in the vicinity of Happy Hill. This would be a desirable substitution for Snug Harbor in that they would not have to cross the Craft traffic lane, but to make this exchange would cost the Board approximately one half of a million dollars. It

Plaintiff-Intervenor's Exhibit No. 72 at July 1967 Hearing

is my opinion that they will want to forego crossing Craft Highway and continue with the present facility at Snug Harbor in order to save this one half million dollars in buildings.

It might be worth consideration if the people, who resist our turning Snug Harbor into a Negro school, could find a way to make that property worth as much as a half of a million dollars. In such cases it might be worth the Board's consideration to abandon the use of Snug Harbor School and making use of the Neece property that we looked at. As I see it, these are the only reasons for our making use of the Neece property of which we looked.

Naturally if we had the Neece property and an 18 room building with modern facilities, it would be much more valuable than our present Snug Harbor assignment, but it would house no more children. As an investment it might be wise, but in the matter of housing our children at the least possible cost to the citizens, it looks as if Snug Harbor is our best bet.

C. L. Scarborough

CLS:wt

[1031]

Excerpt from Transcript of Proceedings, July 17, 1968

By Mr. Jones:

Q. Did you give any instructions or did anyone on your staff give any instructions to Mr. Clardy as to how to either determine neighborhoods or how to define neighborhoods? A. No, sir.

Q. Is there a workable definition or a standard definition which the School Board has used to define neighborhoods as such? A. Not unless it would be something very informal indeed that neighborhoods— We look upon neighborhoods in two different ways. You can create a neighborhood on a map in terms of geographic and natural barriers and that, but it's mighty, mighty, hard to identify a neighborhood sociologically and otherwise because that has to do with factors [1082] not fully understood and involves information we do not always have at our command, plus the fact that neighborhoods are constantly changing both psychologically and geographically and this makes the problem of organizing the School System very complex indeed.

Q. How many racially integrated neighborhoods are there in the City of Mobile? A. I really don't know.

Q. Do you have any estimate as to how many there are? A. No.

Q. How many all-white neighborhoods would you say there are? A. I do not know.

Q. How many all-negro neighborhoods? A. I do not know.

[1526]

Excerpt from Transcript of Proceedings, July 19, 1968

A. Wait, let me comment a bit about the relationship of grade structures.

First of all, as I mentioned previously, it was not my purpose to evaluate the particular grade structures used by the School System, but simply to make some kind of evaluation that whatever grade structure the System had adopted was being applied in a non-racial way. Now, one other point here I think, my view was that the grade structure should be applied consistently, but that did not mean there wouldn't be deviations from it. It would only mean that the deviations would have to be justified on some educational basis. In one way, it's difficult to say that the System actually has a grade structure. There are so many different grades in the—by school in the System.

The Court: Is that unique to this System?

The Witness: I have never encountered a System like this.

The Court: Have you ever encountered a system of this size that was uniform completely?

The Witness: [1527] No, sir, but as I say, I have never encountered one with such deviations as this one. Seven schools from 1 to 5; seven grades 1 to 6; one, grades 1 to 8; one, grades 1 to 12; one, grades 6 to 7; one, grades 6 to 8; and one 6 to 12; two with grades 7 and 8; four with grades 7 to 9; there are two, grades 7 to 12; two, grades 8 to 12; three, grades 9 to 12, and three, grades 10 to 12. So, there is a very

considerable amount of variation, although the present pattern at the elementary level is six grades at the school.

Mr. Philips: Your Honor, he has read that off from a list much too fast for us to copy to determine the validity of what he has said.

The Witness: By all means—

The Court: Surely.

Mr. Jones: Here it is. Would you continue, Dr. Lieberman.

The Witness: I need my notes.

[1528] Mr. Philips: If he needs his script to testify further, we can copy it later.

Mr. Jones: Your Honor, for the record, I don't think that the—Dr. Lieberman's notes can be referred to as the script.

By Mr. Jones:

Q. Dr. Lieberman, is it true that the summary of grade structures as made from you are notes that you previously referred to? A. That is correct.

Q. All right. Continue. A. Now, taking into account grade structure, one very obvious situation that called for analysis is the one at the west end of the district in the Hillsdale area.

Q. Is that a 1 to 12? A. That is a 1 to 12 grade structure, and the Hillsdale complex, the high school there had 49 graduating last year. Now, I think it's universally accepted among educators, especially those in secondary education, that a high school that has only 49 graduates is

far too small for a good educational [1529] program. Either you cannot offer or arrange the subjects necessary to meet the diverse needs and interests of pupils at that age, or if you did, you would have to do so at the cost of the taxpayers. If for example, there were three students that wanted to take physics or advanced math or something like that in a high school that had that few students, you wouldn't be able to supply the subject, or if you did so, to hire teachers that would only teach three or four pupils. I might add here that the most significant study of the American high school, the one by Dr. James Bryant Conant said that the elimination of small high schools was the biggest, most important step that could be taken to the improvement of secondary education in this country. Now, the Board has given great weight to, considerable attention to grade structure as I understand it. It has adopted a policy change of going from a 6-3-3 to a 5-3-4 plan and in the document that I read supplied by the Board, it was called a middle school montage, the rationale for the change was set forth. One of the things set forth in that rationale was the difference between the pupils in grades 5 and 6. [1530] That is when the difference in the pupils is the greatest. Now, we have a situation then, you know, if the difference between those grades is so important and the Board is considering reorganizing the entire System on that basis, it was impossible for me to understand how they could maintain the complex of grades 1 through 12. They say with the very small high school, for example, these students could have gone, for example, to Davidson which was under capacity. So Davidson was, I think, a hundred

and eighty-eight, was close to 200 under capacity and some students in that area, by my measurements were further away than the Hillsdale group. Now, I might say very candidly that this example seemed to me to be so flagrant to maintain a negro high school with only 49 in the class when there was room at another school, and considering the overwhelming educational reasons for phasing out a high school of that size that— I would say very candidly, that that alone in my judgment would have been the basis for questioning the entire approach of the Board.

Now, another illustration, there are two high schools that are very close together, Blount and Vigor.

[1531] Q. You want to refer to "Defendants' Exhibit 6"? A. Yes, which is the high school zone map supplied by the Board.

Now, here are the two high schools and they are very close together. The Vigor grade structure is either 8 or 9 to 12, I believe. Let's see, Vigor is 10 and Blount— It's the other way around, Blount is 8 to 12. So, the overwhelming or 100 percent negro high school is 8 to 12 and Vigor is 10 to 12. Now, obviously the only way— The dividing line here is a racial line. This is I-65 and to the west there are whites, and you notice how large the Vigor district is. Now, obviously the only way you could fill Vigor with grades 10 through 12, or the only way you could fill it with white students would be to have a tremendous area. If the two high schools had the same grade structure— Let's say Blount was 10 through 12. Then obviously it would have had to absorb some of the students since it's closer to the students than the Vigor area.

So, this was another example of where I think grade structure raised some question.

Then, another illustration, the Hall area. The Board [1532] plan calls for using or adding a seventh grade to Hall and it's on the junior high map, the seventh grade. It's listed as a junior high, but that is only for the seventh grade and that will be— In other words, only white seventh graders from this area, and the Board has indicated that it wants to keep them together because they are going to another eighth grade school, so that even now on paper it looks like there is considerable integration at Hall. Actually, they will have a segregated class in that school. It will be predominantly, regardless of whether it will be predominantly or under, the white students will be seventh graders and the intention is to keep them together in that school. Then— Well, those are some of the examples on grade structure.

Now, as I say, I certainly do not question the necessity for deviation in grade structure. The problem that I have is that the deviations always seem to result in more segregation, not less.

HEW Plan of July, 1969

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Washington, D. C.

July 7, 1969

Honorable Daniel Holcombe Thomas
Judge, District Court
P. O. Box 137
Mobile, Alabama 36601

Re: Davis, ET AL, United States of America, ET AL, vs. Board of School Commissioners of Mobile County, ET AL.

Dear Judge Thomas:

Pursuant to Court Order of June 3, 1969, we are enclosing six (6) copies of the plan formulated and recommended by the Office of Education of The Department of Health, Education and Welfare for the operation of schools in Mobile School District.

Sincerely,

J. J. Jordan

for Dr. Gregory Anrig
Director
Division of Equal Educational Opportunities
U. S. Office of Education

HEW Plan of July, 1969

A DESEGREGATION PLAN FOR THE MOBILE COUNTY PUBLIC SCHOOLS

A REPORT TO THE
SUPERINTENDENT

BY THE
DIVISION OF EQUAL EDUCATIONAL OPPORTUNITIES
UNITED STATES OFFICE OF EDUCATION
ATLANTA, GEORGIA

HEW Plan of July, 1969

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HEW Plan of July, 1969

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Regional Office
Room 404, 50 Seventh Street, N. E.
Atlanta, Georgia

July 7, 1969

Dr. Cranford H. Burns
Superintendent
Board of School Commissioners
of Mobile County
P. O. Box 1327
Mobile, Alabama 36601

Dear Dr. Burns:

In accordance with the June 3, 1969, order of the United States Court of Appeals for the Fifth Circuit, the following desegregation plan for ending the dual school system in Mobile County is submitted for your consideration.

We wish to express our appreciation for the cooperation received from you and your staff.

Sincerely yours,

JJ Jordan

Jesse J. Jordan
Senior Program Officer
Office of Education
Equal Educational Opportunities
Title IV

HEW Plan of July, 1969

CHAPTER I

BACKGROUND INFORMATION ABOUT MOBILE COUNTY

A. Location

Mobile is the oldest city in the state of Alabama, the second in size, and the only seaport serving the state. Located on Mobile Bay in close proximity to the Gulf of Mexico and the large river systems which feed the bay, the community is geographically favored by water resources of various types. The city of Mobile is part of the rapidly growing and developing Gulf Coast region, an area in which cities are merging physically in a long strip stretching from New Orleans to Tampa. The public school system of Mobile includes the metropolitan area of Mobile city and the surrounding county area of Mobile County. The total area of the county is 1,222 square miles, or 732,080 acres. Mobile County is situated in the extreme southwestern part of the state. It is bounded on the north by Washington County, on the east by Baldwin County, on the south by the Mississippi Sound of the Gulf of Mexico, and on the west by Jackson, George and Green Counties, Mississippi. From north to south its extreme length is 60 miles. From east to west its width is from 17 to 30 miles.

Major industries located in the area are shipbuilding, ship repair, cement, manufacturing of wood pulp and paper products, steel fabricating, foundries, aluminum industry, rayon fibers, naval stores, oil refining, clothing manufacturing, furniture manufacturing, pumps, batteries, paint, chemicals and fish and seafood products. Mobile is served by five railroads, four major airlines, 100 steamship lines, 55 trunk lines, and one of the most extensive river and canal systems in

the nation. The state of Alabama owns and operates the modern ocean terminal a Mobile, which can accommodate 32 vessels simultaneously. The Port of Mobile ra in the nation's top ten in terms of gross tonnage.

B. Population

As can be seen by examining Table 1-1, since 1950 the population of Mobile County has continued to record a modest gain in spite of the phase-out of Brookley Air Force Base. Between 1950 and 1960 Mobile County's population increased 27 percent while that of the metropolitan area of Mobile increased 31 percent, which is well above the national average of 18.5 percent and still farther ahead of Alabama's rate of 6.7 percent. The phase-out of Brookley did, however, affect Mobile County's estimated rate of growth. In fact, 1968 population estimates are only 18,100 above the 1960 figures reported by the U. S. Census of Population, a gain of 4.5 percent, which is substantially less than 1 percent annually. It must be noted that the future use of Brookley Facility by the City of Mobile, private industries, and education is expected to have a tremendous influence on population changes in Mobile. It has been projected that the population of Mobile County will reach 507,300 by 1995.

Approximately 32 percent of the total population of Mobile County is non-white. It has been projected that the non-white population will experience an insignificant decline from 32.2 percent in 1965 to 31 percent in 1995. The proportional decline will be caused primarily by increased in-migration of whites to fill employment demands in the white collar and skilled blue collar categories. It is estimated that 78.6 percent of the total non-white population of Mobile County live in the Metropolitan Mobile Area.

POPULATION

MOBILE COUNTY
1960

Year	Metropolitan Mobile	Mobile County
1960	264,747	314,301
1950	152,682	231,105

CHARACTERISTICS OF POPULATION—1960

Item	Metropolitan Mobile	Mobile County
Total Population	264,747	314,301
Male	128,373	152,703
Female	136,374	161,598
White	176,072	212,873
Male	86,136	104,641
Female	89,936	108,232
Non-white	88,675	101,428
Male	42,230	48,062
Female	46,445	53,366

ANALYSIS OF POPULATION—1960

Item	Metropolitan Mobile	Mobile County
White percent	66.5	67.72
Non-white percent	33.5	32.28
Population per household	*	3.69
Median age	*	24.9
21 years and over	*	172,382

* Not available

TABLE 1-1

HEW Plan of July, 1969

Maps 1-2 and 1-4 and Tables 1-3 and 1-5 show the distribution by percentage of the non-white population of Metropolitan Mobile and rural Mobile County respectively, according to zones developed by the Mobile County Regional Planning Commission.

C. Population and Employment

As a function of employment, the growth of population in Mobile County has responded primarily to increases in local job opportunities, although the availability of employment outside Mobile County has been quite influential at times. Mobile County's recent economic growth, however, has occurred with only modest increases in employment and population, primarily because growth has come from the county's automation-oriented industrial sector. For example, between 1960 and 1965, the Mobile area generated over $164,513,000 of new and expanded industrial investment, 68.7 percent of which came from chemical, paper, and power facilities -- all highly oriented toward automation.

Although the 1960-65 investment was substantial, and reflected considerable economic achievement, net new jobs during this period totaled 4,800 (the term net new jobs represents accessions less separations, and is the only true measure of employment growth). Between 1965 and 1968 new and expanded industrial investment totaled $298,607,000, 73 percent of which represented paper, chemical, and power expansion. During this period, however, net new jobs generated by the non-Brookley sector of the economy numbered only 3,400.

As of 1965 Mobile County's labor force participation ratio was 35.9; i.e., 35.9 percent of the county's population was actively seeking employment or was gainfully employed, either within the county or outside its boundaries. Thus, with a resident labor force of 119,300 in 1965, Mobile County's population totaled

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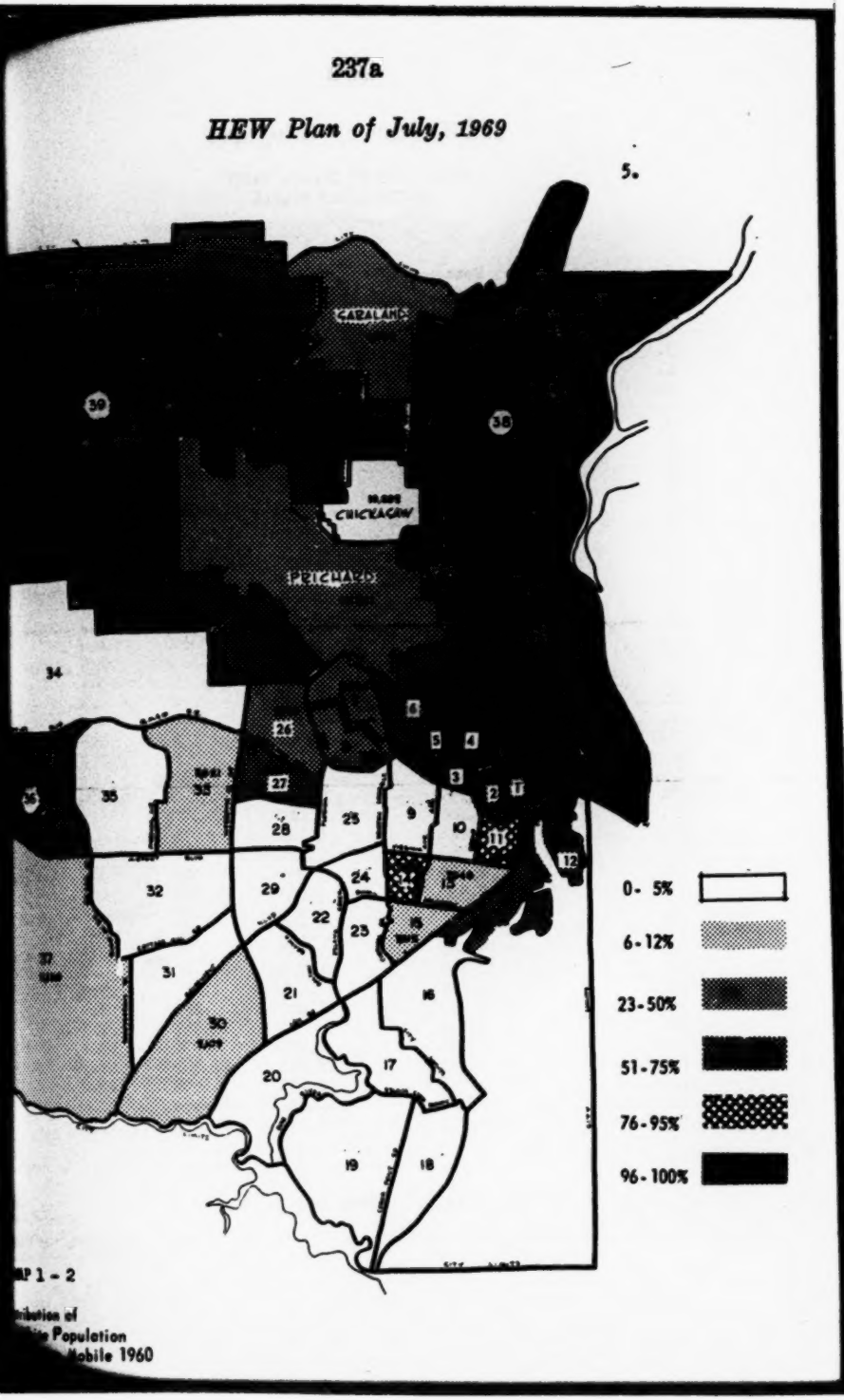

P 1 - 2

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e Population
Mobile 1960

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POPULATION BY CENSUS TRACT
METROPOLITAN MOBILE
1960

Census Tracts	Total Population	Total White	Total Nonwhite	Percent Nonwhite
1.	551	423	128	23.2
2.	7,566	3,141	4,425	58.3
3.	4,225	95	4,130	97.8
4.	8,675	15	8,660	99.8
5.	6,710	257	6,453	96.0
6.	5,822	1,522	4,300	73.8
7.	8,046	5,693	2,353	29.2
8.	5,908	3,151	2,757	46.5
9.	8,328	8,173	155	1.8
10.	6,993	6,289	704	9.9
11.	9,944	1,600	8,344	83.4
12.	5,750	2,114	3,636	64.3
13.	6,517	5,695	822	12.8
14.	5,522	684	4,838	87.6
15.	7,015	6,367	648	9.1
16.	861	821	40	2.2
17.	3,120	3,018	102	3.1
18.	2,251	1,901	350	1.5
19.	4,723	4,589	134	2.6
20.	1,577	1,522	55	3.1
21.	4,144	4,135	9	.0
22.	4,384	4,376	8	.4
23.	6,797	6,789	8	.1
24.	4,702	4,696	6	1.1
25.	9,666	9,634	32	.2
26.	5,199	3,689	1,510	29.0
27.	4,400	3,020	1,380	31.3
28.	5,641	5,626	15	.1
29.	3,360	3,353	7	.1
30.	2,109	1,986	123	5.6
31.	2,949	2,813	136	4.4
32.	5,271	5,225	46	.8
33.	3,621	3,314	307	8.4
34.	9,280	9,236	44	.3
35.	4,729	4,705	24	.5
36.	3,937	2,130	1,807	45.9
37.	2,220	2,040	180	8.1
38.	2,343	52	2,291	97.7
39.	7,923	2,997	4,926	62.1
Prichard	47,371	25,048	22,323	47.37
Saraland	4,595	4,136	459	10.0
Chickasaw	10,002	10,002	none	.0
Total	264,747	176,072	88,675	33.5

TABLE 1-3

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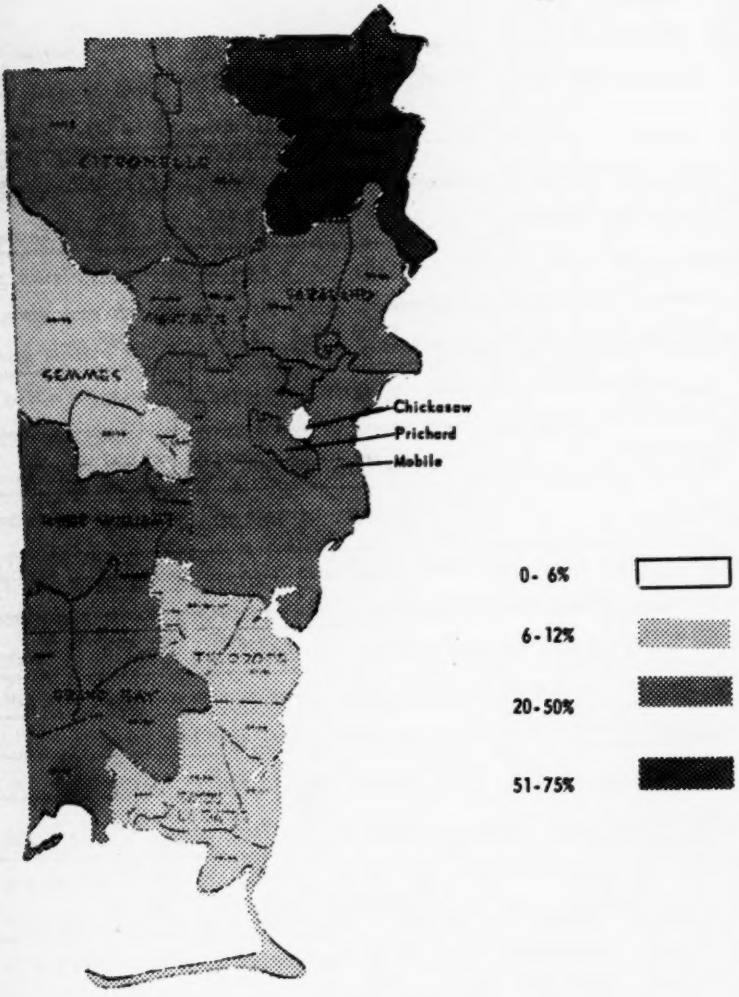
7.



MAP 1 - 4

tribution of
n-White Population
bile County 1960

HEW Plan of July, 1969

POPULATION BY CENSUS TRACT
MOBILE COUNTY, ALABAMA
1960

	Total Population	Total White	Total of Non-white	Percent Non-White
Bayou La Batre	6,604	5,853	751	11.37
Chickasaw	10,130	10,130	0	0
Citronelle	4,230	3,243	987	23.33
Eight Mile	1,706	1,368	338	19.81
Grand Bay	6,174	4,091	2,083	33.73
Mobile	202,779	139,160	65,619	32.36
Mt. Vernon	6,881	2,027	4,854	70.54
Prichard	47,431	25,028	22,403	47.23
Saraland	9,527	6,520	3,007	31.56
Semmes	4,498	4,155	343	7.62
Tanner-Williams	4,273	3,249	1,024	23.96
Theodore	10,068	9,262	806	8.00
TOTALS	314,301	212,086	102,215	32.52

TABLE 1-5

331,300 persons. By 1995 population should fall between 464,400 and 550,000, as the result of a resident labor force of from 176,500 to 209,000 persons and a participation ratio of approximately 38 percent .

Although population and employment have been adversely affected since the phase-out of Brookley Air Force Base began, it appears that Mobile County, without Brookley, is going to have a more desirable balance between the major segments of its economy. For example, compared with 1964, Mobile County's 1995 employment profile will have a much higher percentage of manufacturing employees, and a smaller proportion of government workers. (See Table 1-6.) Although government employment contributes much to a community's standard of living, employment associated with the production of goods and services for export and local consumption provides a more lucrative base for expansion.

By 1995 -- following the manufacturing trend -- construction, retail trade, wholesale trade, finance, insurance, real estate, and services will expand in importance. On the other hand, agriculture, transportation, communications and utilities employment, as well as self-employed persons and domestic workers, will decline as a percentage of total employment. Except for agriculture, however, these latter categories will still increase in absolute numbers.

Except for the massive effect on government employment of Brookley's phase-out, proportional shifts in the major employment categories between 1965 and 1995 will be caused primarily by technology and automation. Technology and automation will also be responsible for increasing proportions of professional and technical occupations and smaller proportions of blue collar jobs. Other significant characteristics of the work force will be: more employed women; fewer employed

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MOBILE COUNTY

"AT PLACE" EMPLOYMENT PROFILE

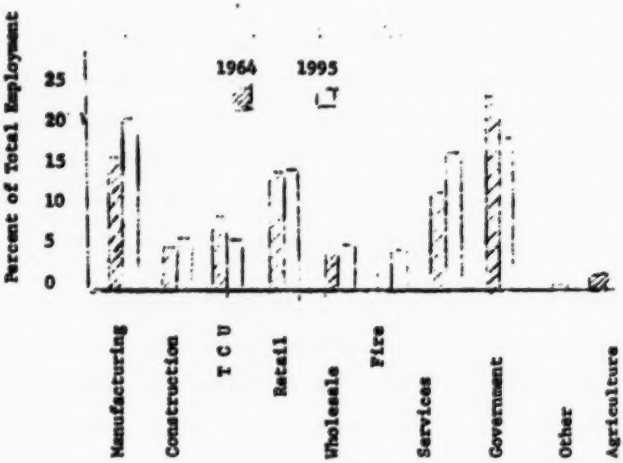

TABLE 1-6

persons under 18 years of age; older workers retiring earlier; greater labor mobility; a shorter work week; better educated workers; and increased fringe benefits and "take-home" pay. (See Tables 1-7 and 1-8.)

In 1965 unemployment in Mobile County totaled 5,100, or 4.3 percent of the civilian "at place" labor force. By 1995 the unemployment rate will more than likely remain about the same as in 1965; in absolute numbers, however, it should range somewhere between 7,900 and 9,300. Although jobs will be "steadier," competition for labor, combined with greater labor mobility, will prevent the unemployment rate from improving drastically.

HEW Plan of July, 1969

AVERAGE ANNUAL CIVILIAN "AT PLACE" EMPLOYMENT

MOBILE COUNTY: 1960-95

(In Thousands)

	Planning Area		
	Low	Medium	High
1960		108.9	
1961		108.2	
1962		108.6	
1963		112.3	
1964		113.2	
1965		113.7	
1966		111.1	
1967		105.7	
1968		105.1	
1969	106.0	107.0	108.0
1970	107.0	110.8	114.6
1975	114.5	120.7	126.9
1980	124.5	134.0	143.4
1985	137.0	149.5	162.1
1990	152.0	166.0	180.1
1995	169.5	185.0	200.6

TABLE 1-7

CIVILIAN "AT PLACE" EMPLOYMENT PROFILE

PERCENT DISTRIBUTION, BY MAJOR CATEGORY

MOBILE COUNTY: 1964 and 1995

	1964	1995
Nonagricultural	98.7	99.5
Wage and Salary	84.7	89.0
Manufacturing	15.2	19.6
Food and Kindred Products	2.2	2.3
Textiles and Apparel	0.1	0.4
Lumber and Wood Products	1.1	0.6
Paper and Paper Products	5.6	4.2
Chemical and Allied Products	1.6	3.2
Shipbuilding and Repair	2.3	2.9
Other Manufacturing	2.1	6.0
Nonmanufacturing	69.5	69.4
Construction	5.7	6.7
TCU 1/	8.5	6.0
Trade	16.2	18.8
Retail	13.3	13.8
Wholesale	4.9	5.0
FIRE 2/	3.5	5.0
Services and Miscellaneous	11.3	15.4
Government	22.3	17.3
Other Wage and Salary	—	0.2
Other Nonagricultural	14.0	10.5
Agricultural	1.3	0.5
Total	100.0	100.0

1/ Transportation, Communications and Utilities
2/ Finance, Insurance and Real Estate

Sources: Department of Industrial Relations, Alabama State Employment Service, 1964
John H. Friend, Inc., 1995

TABLE 1-8

D. Personal Income

Total personal income in Mobile County totaled $747.7 million in 196 and is projected to reach $610 million by 1970. The combination of gain in population and increase in per capita income will be responsible for the larg growth of total personal income.

With the per capita income increase from $2,250 in 1965 to $2,500 in 19 the average family annual income is expected to reach $9,066 for the same perio of time. The average annual family income in Mobile County should approach $15,400 by 1995. The gain represents an increase of over 85 percent. In 199 approximately 20 percent of all families in the County will earn $15,000 or mor compared with 6.6 percent in 1965. Only 6.5 percent of all families will earn $7,455 or less in 1995. In 1965 the percentage was 61.6.

See Table 1-9 for projected per capita income, total personal income, a average family income for Mobile County.

The 1960 Census revealed that of the 73,993 families in Mobile County, 4,806 families had annual family incomes of under $1,000, 6,525 had annual fami incomes between $1,000 and $1,999, and a total of 18,815 (25 percent) had annual family incomes of under $3,000. The median family income in 1960 was $5,132.

Table 1-10 offers a more up-to-date distribution of families by income class. Map 1-11 and Table 1-12 show the percentage of distribution of families in Metropolitan Mobile earning an annual family income of $3,000 or less.

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Population, income, and employment data referred to in this discussion was obtained from the following publications:

Friend, John H. The Shape of the Future: An Economic and Population Study of Mobile, Baldwin, and Escambia Counties, Alabama. Clearinghouse for Federal Scientific and Technical Information, Washington, D. C., 1969.

Mobile, Alabama: An Economic Abstract. Mobile Area Chamber of Commerce, 1969.

Mobile, Alabama: An Economic Handbook. Mobile Area Chamber of Commerce, 1969.

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TOTAL PERSONAL INCOME, PER CAPITA INCOME, AND AVERAGE FAMILY INCOME
MOBILE COUNTY: 1965-95
In Constant 1965 Dollars)

	Total (000,000)	Per Capita	Average Family
1965	747.7	2,250	8,300
1970	810.0	2,500	9,100
1975	966.6	2,600	10,100
1980	1,202.2	3,200	11,500
1985	1,484.6	3,600	12,600
1990	1,779.6	3.900	13,800
1995	2,232.1	4,400	15,400

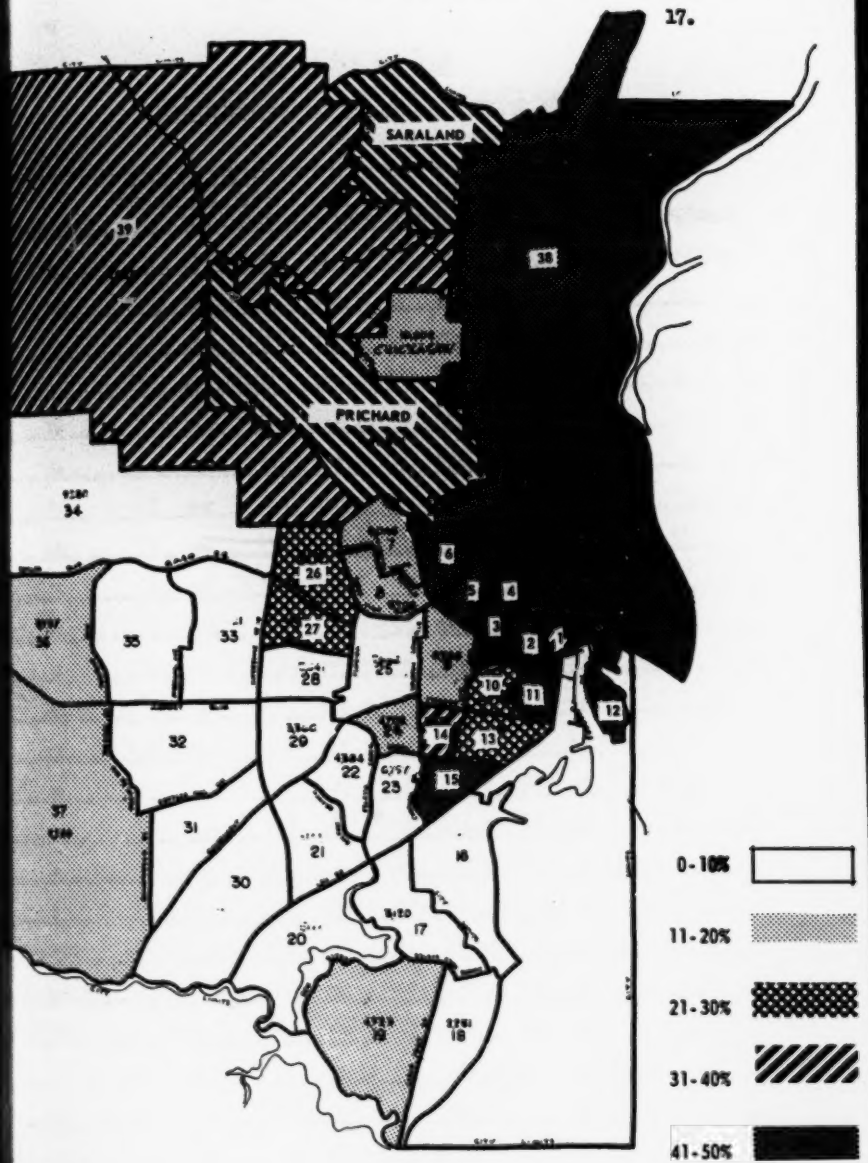
TABLE 1-9

PERCENT DISTRIBUTION OF FAMILIES, BY INCOME CLASS
MOBILE COUNTY: 1965 and 1995

	1965	1995
Under $3,000	14.0	1.5
$3,000 - 7,499	47.6	5.0
$7,500 - 14,999	31.8	73.5
$15,000 and over	6.6	20.0
Total	100.0	100.0

TABLE 1-10

HEW Plan of July, 1969



tion of
me Families ($3,000 and Below)
Mobile 1960

MAP 1 - 11

11.

METROPOLITAN MOBILE

LOW INCOME FAMILIES, BY CENSUS TRACTS 1960

Location	Census Tract	Total Population	Total Families	Family Income of Less Than $3,000	Percent
Mobile	1	551	42	15	36
	2	7,566	1,606	769	48
	3	4,225	924	495	54
	4	8,675	1,852	1,134	61
	5	6,710	1,542	638	41
	6	5,822	1,218	552	45
	7	8,046	2,001	336	17
	8	5,908	1,340	244	18
	9	8,328	2,242	274	12
	10	6,993	1,800	403	22
	11	9,944	2,185	1,006	46
	12	5,750	1,168	563	48
	13	6,517	1,733	357	21
	14	5,522	1,159	446	38
	15	7,015	1,712	766	45
	16	861	174	16	9
	17	3,120	833	72	9
	18	2,251	538	103	19
	19	4,723	1,192	130	11
	20	1,577	391	19	5
	21	4,144	1,053	77	7
	22	4,384	1,128	82	7

TABLE 1 - 12

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18a.

METROPOLITAN MOBILE

LOW INCOME FAMILIES, BY CENSUS TRACTS 1960

...ction	Census Tract	Total Population	Total Families	Family Income of Less Than $3,000	Percentage
...bile	23	6,797	1,778	158	9
	24	4,702	1,366	172	13
	25	9,666	2,747	206	7
	26	5,199	1,166	350	30
	27	4,400	1,064	323	30
	28	5,641	1,576	92	9
	29	3,360	849	4	0.5
	30	2,109	573	58	10
	31	2,949	743	53	7
	32	5,271	1,402	51	4
	33	3,621	728	71	10
	34	9,280	2,432	143	6
	35	4,729	1,218	52	4
	36	3,937	880	174	20
	37	2,220	532	82	15
	38	2,343	485	218	45
	39	7,923	1,609	564	35
...richard		47,371	10,712	3,483	35
...ickasaw		10,002	2,428	509	20
...erland		4,595	1,743	549	31

TABLE 1 - 12A

E. Educational Level of the Adult Population of Mobile County

Statistical data available from the Mobile Chamber of Commerce indicates that 156,448 persons 25 years old and over reside in Mobile County. Included in this age level are 3,677 persons (2.3 percent) who have not completed one year of school, 13,165 (8.4 percent) who have completed four years or less, and 46,349 (29.6 percent) who have completed between four and eight years of formal education. Consequently, forty percent (63,191 persons) of the population 25 years old or older have completed eight or less years of formal education.

1960 Census data indicates the following relative to the educational level of the adult population of the residents of Mobile County 25 years old or older:

1. Rural Mobile County—median school years completed: 8.7
2. Prichard—median school years completed: 8.8
3. Chickasaw and Saraland—median school years completed: 9.0
4. City of Mobile—median school years completed: 11.2
5. Average educational level of persons 25 years old or older residing within the boundary of the City of Mobile: 10.3.

However, training programs for adults have been available in the Mobile area for a number of years. The local school system has offered adult basic education for those persons who have not completed eight years of formal education. Murphy High School also offers technical and general educational courses to adults in various fields such as mechanical drawing, electronics, etc. Carver State Technical School and Southwest State Technical Institute are available to prepare high school graduates and persons 16 years old and older for

loyment in vocational, technical, and industrial occupations.

Qualified persons who desire to continue their education may enroll at le State Junior College, William Lowndes Yancey State Junior College, Mobile ge, Spring Hill College, or at the University of South Alabama.

Conclusions

An analysis of Chapter I indicates an increasing population with a tively stable ratio between white and non-white.

Employment will demand an increase in technical skills and a higher level ducation. Manufacturing will increase, but with heavier emphasis on tech- gy and automation.

These characteristics indicate a great need for increased educational rtunities that provide maximum "holding power" of students. In the decade he 1960's, 40 percent of the adult population had completed 8 years or less ormal education. Many of these citizens are Negro.

The economic, educational, and social needs of the next decades lend elling support for a unitary school system offering integrated educational rtunities at all levels with a larger emphasis on instructional programs ed to developing the comprehensive skills needed to manage a complex nology.

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CHAPTER II

STATUS OF SCHOOL DESEGREGATION 1968-69.

A. Desegregation of Pupils

In 1968-69 there were some 75,421 pupils in the Mobile County School sy
Of this total 43,992, or 58.3 percent were white and 31,429, or 41.7 percent
Negro. These pupils were housed in 91 school centers.

The procedures for determining the attendance of pupils at individual sc
centers were established by court orders of July 29, August 2, and August 13,
Actually these comprise one court order with amendments and hereafter in this
report will be referred to as the court order of July 29, 1968.

This court order of July 29, 1968, directed that the following provisions
be made for attendance of pupils at schools in 1968-69:

1. Pupils in rural Mobile County should exercise freedom of choice in the selection of a school.
2. Pupils in grades 9 - 12 in the metropolitan area and pupils in grade 8 in the Craighead and Carver zones should exercise freedom of choice in determining the school which they would attend.
3. Pupils in grades 1 - 8, except the 8th grade students in the Craighead and Carver zones in the metropolitan area, should attend schools in the attendance zone prescribed by geographic boundaries established by the court. Different boundaries were established for elementary schools and junior high schools.

Provision in the July 29 court order was made for transfer of pupils to ols other than the one in the geographic zone where the pupil resided. The l or his parents had to make application for transfer within prescribed dates the Central Office for the school system was required to keep a record of all sfers granted. Transfers were to be granted to:

1. Students whose race comprised the student minority in a school if such minority were five per cent or less;
2. Students who had only one grade to complete before moving up from the school last attended, but who would be placed in a different school by geographic lines prescribed.
3. Students who could show good cause for desiring a transfer, with racial matters being definitely eliminated as good cause.
4. Students requiring a course of study not offered at the school where geographic boundaries would place them;
5. Students attending special schools such as those for physically handicapped, mentally retarded, or gifted children, provided the matter of race was not involved.

The July 29 order gave the following directive regarding transportation:

Where transportation is generally provided, busses must be routed to the maximum extent feasible in light of the geographic distribution of students so as to serve each student choosing any school in the system. Every student choosing either the formerly predominantly white or the formerly predominantly Negro school nearest his residence must be transported to the school to which he is assigned under these provisions, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules and the School Board's transportation policy.

The effect of this court order in the desegregation of schools is shown in les 2-1 through 2-6. These tables show the name of the school which was in ation on September 27, 1968, the grade levels served by the school, and the

racial composition of the student body. They also show the total number of p transported, without regard to race. In most instances, however, the race being transported can be determined by the composition of the student body school to which they were transported.

The tables give the capacity of the school's permanent facilities in school center in accordance with the method followed by the school system in determining capacity. This method provides that the capacity of an elementary school is determined by multiplying the number of classrooms by 34. For junior and senior high schools, the number of teaching stations is multiplied by 2 schools with less than 1,000 pupils and by 29 for schools with over 1,000 pu In the case of extremely small high schools, smaller numbers than 28 or 29 a used for teacher allocation purposes. For the special school, shown in Tabl no formula for capacity is used.

The tables also give the number of portables used at each school in the 1968-69 school year.

The order of listing the schools in the various tables is, generally speaking, by geographic proximity from the south to the north. This was done order that data concerning adjacent schools could be studied.

In Table 2-1, which provides data for the rural schools, it will be shown that some Negro pupils chose to attend predominantly white schools but that no white pupils chose to attend Dixon, St. Elmo, Burroughs, Dawes-Union, Adams, Belsaw, or Lott. The total of the number of pupils in the rural schools is 19,023, of whom 15,186, or 79.8 percent are white and 3,837, or 20.2 percent are Negro. The 27 schools listed in Table 2-1 serve an area ranging from 17 to 3 miles wide and about 60 miles long, with Metropolitan Mobile being excluded in this listing.

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Table 2-2 deals with senior high schools in the metropolitan area, where ...on of choice was also in operation. It indicates that a number of Negro ...ils elected to attend predominantly white schools but that no white pupils ...e to attend Central, Toulminville, Mobile County Training School, Blount, and ...ity Gardens, and only two white pupils elected to attend Williamson.

The 11 senior high schools serving Metropolitan Mobile serve 15,498 pupils, ...om 8,458, or 54.5 percent are white and 7,040, or 45.5 percent are Negro.

Table 2-3 gives data for the junior high schools in the metropolitan area, ...e provision for transfers as previously described was made. It shows that ...ington, Mobile County Training, Carver, Trinity Gardens, and Hillsdale ...ined all Negro, and Dunbar has 5 white pupils in a student body of 933. Rain, ...e, Azalea Road, Scarborough, and Eight Mile each had less than 60 Negro ...ils, although these five schools did serve all Negro students living in their ...endance areas.

The 15 junior high schools in Metropolitan Mobile have a total of 11,976 ...ils in attendance, of whom 6,386, or 53.3 percent are white and 5,590, or ...7 percent are Negro.

Table 2-4, which provides information about the elementary schools of the ...opolitan area, where attendance was controlled by boundaries with provision ...transfer as previously indicated, shows that Howard, Fonvielle, Whitley, ...dew, and Hillsdale remained all Negro and a number of other schools had ...atively few white pupils. There were a number of predominantly white schools, ...o, which had either no Negro pupils or a very few.

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There are 28,142 pupils in attendance in the 42 elementary schools of the metropolitan area, of whom 13,886, or 49.4 percent are white and 14,236, or 50.6 percent are Negro.

Table 2-5 gives data on a special school for trainable pupils. This school serves the entire county. It will be noted that it is desegregated, with 76 white and 86 Negro pupils.

Table 2-6 provides summary data for Tables 2-1 through 2-5. The overall ratio of the pupil population is 58.3 percent white and 41.7 percent Negro. From information previously presented, however, it will be noted that this ratio varies considerably between metropolitan and rural areas and between grade levels within the metropolitan area.

The total of the schools listed on all tables is 96. Five schools in the metropolitan area, however, are listed on two tables since they have both elementary and junior high school grades or both junior high and senior high school grades. The total number of school centers operated as separate administrative units, therefore, is 91.

September 27, 1969

September 27, 1968

RURAL SCHOOLS, GRADES, PUPIL MEMBERSHIP BY RACE, NUMBER PUPILS TRANSPORTED, SCHOOL CAPACITY OF PERMANENT FACILITIES NUMBER PORTABLES

Schools	Grades	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
		White	Negro	Total			
1. Dauphin Island	1 - 6	57	2	59	50	102	0
2. Alba	1 - 12	1,578	2	1,580	709	1,470	8
3. Dixon	1 - 6	0	391	391	311	408	0
4. Grand Bay	1 - 6	715	19	734	514	850	0
5. Mobile County High School	7 - 12	578	29	607	425	700	7
6. St. Elmo	7 - 12	0	748	748	725	644	3
7. Hollinger's Island	1 - 8	486	1	487	261	390	4
8. Burroughs	1 - 6	0	414	414	97	612	0
9. Davis	1 - 6	779	5	784	495	850	0
10. Theodore	7 - 12	1,743	34	1,777	1,402	1,400	14
11. Griggs	1 - 6	1,042	0	1,042	393	544	15
12. Dawes-Union	1 - 6	0	158	158	124	204	0
13. Baker	1 - 12	1,038	0	1,038	845	806	11
14. Tanner-Williams	1 - 6	282	0	282	260	476	0

TABLE 2-1

Rural Mobile County
September 27, 1969

Schools	Grades	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
		White	Negro	Total			
15. Wilmer	1 - 6	305	60	365	271	408	0
16. Montgomery	9 - 12	759	28	787	646	784	0
17. Semmes	1 - 8	994	26	1,020	901	1,058	2
18. Saraland	1 - 6	830	0	830	0	850	0
19. Lee	1 - 6	924	1	925	463	850	2
20. Adams	1 - 12	0	779	779	270	1,160	0
21. Satsuma	7 - 12	1,344	3	1,347	1,028	1,036	14
22. Mt. Vernon	1 - 8	173	18	191	47	158	1
23. Belsaw	1 - 8	0	551	551	157	506	9
24. Calvert	1 - 6	86	0	86	42	102	0
25. Calcedeaver	1 - 12	300	0	300	269	304	4
26. Lott	1 - 12	0	568	568	509	816	0
27. Citronelle	1 - 12	1,173	0	1,173	754	1,380	0
Totals		15,186	3,837	19,023	11,968	18,668	94

TABLE S-1a

Metropolitan Mobile
September 27, 1968

SENIOR HIGH SCHOOLS, GRADES, PUPIL MEMBERSHIP BY RACE, NUMBER PUPILS TRANSPORTED, SCHOOL CAPACITY PERMANENT FACILITIES, NUMBER PORTABLES

School	Grades	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
		White	Negro	Total			
1. Rain	9 - 12	760	49	809	12 (10-12)	448	0
2. Williamson	8 - 12	3	1,131	1,134	0	1,334	0
3. Murphy	9 - 12	2,707	147	2,854	0	2,900	0
4. Central	9 - 12	0	1,614	1,614	0	1,566	2
5. Toulminville	10 - 12	0	1,107	1,107	0	638	15
6. Mobile County Training	9 - 12	0	710	710	0	700	0
7. Blount	8 - 12	0	1,894	1,894	0	2,001	0
8. Vigor	10 - [illegible]	1,564	109	1,673	454	1,740	0
9. Trinity Gardens	9 - 12	0	637	637	0	476	0
10. Davidson	9 - 12	2,289	66	2,355	1,115	1,943	15
11. Shaw	9 - 12	1,136	196	1,332	448	928	16
Totals		8,459	7,660	16,119	2,029	14,674	48

TABLE 2-2.

Metropolitan Mobile
September 27, 1968

JUNIOR HIGH SCHOOLS, GRADES, PUPIL MEMBERSHIP BY RACE, NUMBER PUPILS TRANSPORTED, SCHOOL CAPACITY PERMANENT FACILITIES, NUMBER PORTABLES

School	Grades	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
		White	Negro	Total			
1. Bain	7 - 8	415	38	453	30 (7-9)	476	13
2. Eanes	7 - 9	982	57	1039	214	1148	0
3. Craighead	6 - 7	153	394	547	0	728	0
4. Phillips	7 - 8	838	113	951	0	980	0
5. Dunbar	7 - 8	5	928	933	0	1064	0
6. Washington	7 - 9	0	1493	1493	0	1015	15
7. Mobile County Training	6 - 8	0	568	568	0	560	4
8. Prichard	6 - 9	387	163	550	27	616	0
9. Carver	6 - 7	0	881	881	0	784	4
10. Trinity Gardens	7 - 8	0	420	420	0	392	7
11. Clark	7 - 9	1317	239	1556	253	1392	0
12. Azalea Road	7 - 8	1044	40	1084	411	1015	5
13. Hillsdale	7 - 9	0	225	225	0	336	0
14. Scarborough	6 - 8	1039	1	1040	658	928	0
15. Eight Mile	7 - 8	206	30	236	81	232	0

September 27, 1968

ELEMENTARY SCHOOLS, GRADES, PUPILS MEMBERSHIP BY RACE, NUMBER PUPILS TRANSPORTED, SCHOOL CAPACITY PERMANENT FACILITIES, NUMBER PORTABLES

Schools	Grades	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
		White	Negro	Total			
1. South Brookley	1 - 6	514	72	586	83	442	5
2. Morning Side	1 - 6	756	0	756	90	578	6
3. Williams	1 - 6	513	43	556	128	408	5
4. Maryvale	1 - 6	588	30	618	0	612	2
5. Herts	1 - 6	482	0	482	0	510	0
6. Westlawn	1 - 6	595	0	595	0	510	3
7. Woodcock	1 - 6	380	80	460	58	612	0
8. Hall	1 - 6	3	701	704	0	1224	0
9. Arlington	1 - 5	384	153	537	0	476	2
10. Council	1 - 5	0	560	560	0	578	0
11. Emerson	1 - 6	3	518	521	0	442	4
12. Leinkauf	1 - 6	323	125	448	0	442	0
13. Owens	1 - 6	0	1254	1254	0	1496	0

Table 2-4

Metropolitan Mobile
September 27, 1968

Schools	Grades	Pupil Membership - White	Negro	Total	Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
16 Caldwell	1 - 6	1	401	402	0	578	0
17 Howard	1 - 6	0	465	465	0	408	3
18 Old Shell Road	1 - 6	282	130	412	0	476	0
19 Crichton	1 - 6	520	253	773	0	782	1
20 Stanton Road	1 - 6	3	1077	1080	0	1020	3
21 Fonvielle	1 - 6	0	1191	1191	0	1190	2
22 Gorgas	1 - 6	1	1138	1139	0	884	8
23 Palmer	1 - 5	52	688	740	0	578	6
24 Glendale	1 - 6	549	172	721	0	680	1
25 Whitley	1 - 5	0	421	421	0	612	1
26 Brasier	1 - 6	0	1197	1197	0	1156	1
27 Grant	1 - 5	3	1300	1303	0	1292	3
28 Robbins	1 - 5	2	805	807	0	850	0
29 Bienville	1 - 6	336	313	649	0	612	1
30 Hamilton	1 - 6	643	0	643	0	646	0
31 Chickasaw	1 - 6	383	0	383	0	812	0

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Desegregation of Staff

The court order of July 29, 1968, makes only the following statement about ff desegregation:

The decree does not contain any provision dealing with desegregation of faculty, new construction, or desegregation of facilities and activities. This Court's order dated May 13, 1968, fully sets forth the obligation of the School Board in these respects and must be implemented for the 1968-69 school year.

The May 13, 1968 order directed the implementation of the March 12, 1968 ree of the Court of Appeals for the 5th Circuit. This decree reads as follows:

III.

FACULTY AND STAFF ASSIGNMENTS

A. Faculty Employment. Race or color shall not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff members, including student teachers, except that race may be taken into account for the purpose of counteracting or correcting the effect of the segregated assignment of faculty and staff in the dual system. Teachers, principals, and staff members shall be assigned to schools so that the faculty and staff is not composed exclusively of members of one race. Wherever possible, teachers shall be assigned so that more than one teacher of the minority race (white or Negro) shall be on the desegregated faculty. The Board will continue positive and affirmative steps to accomplish the desegregation of its schools for the 1968-69 school year notwithstanding teacher contracts for 1968-69 may have already been signed and approved. The tenure of teachers in the system shall not be used as an excuse for failure to comply with this provision. The appellees shall establish as an objective that the pattern of teacher assignment to any particular school not be identifiable as tailored for a heavy concentration of either Negro or white pupils in school.

B. Dismissals. Teachers and other professional staff members may not be discriminatorily assigned, dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race or color. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system shall be filled through recruitment from outside the system unless no such displaced staff member is qualified to fill the vacancy. If, as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifications of all

HEW Plan of July, 1969

staff members in the system shall be evaluated in selecting the staff member to be released without consideration of race or color. A report containing any such proposed dismissals, and the reasons therefor, shall be filed with the clerk of the Court, serving copies upon opposing counsel, within five (5) days after such dismissal, demotion, etc., as proposed.

C. Past Assignments. The appellees shall take steps to assign and reassign teachers and other professional staff members to eliminate the effects of the dual school system.

Table 2-7 provides information on the number of instructional employees by race in the various schools in Mobile County. Table 2-8 gives the same type of information about administrative and supervisory employees in the Central County Office.

It will be noted in Table 2-7 that all schools except Dauphin Island, a small school with 3 instructional employees, and Foreville, a large school with 38 instructional employees, have at least 1 person of each race. A number of schools have 2 or more persons of each race. The 12 child guidance personnal listed as the last item in Table 2-7 work full time in the schools but are not attached to any particular school.

The total number of instructional personnal serving in the schools o Oct.11,1968, was 2,781½, of whom 1,648½ or 59.2 percent were whits and 1,13

MOBILE COUNTY SCHOOLS
OCTOBER 11, 1968

School	Number of Class-Room Teachers		Principals		Other Personnel		Title of Position of Other Personnel*			TOTAL	
	White	Negro	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
ADAMS	2	28		1		3	1	1	1	2	32
ALBA	52	2	1		3		1	1	1	56	2
ARLINGTON	14	2	1							15	2
AUSTIN	10	2	1							11	2
AZALEA ROAD	37½	2	1		3		1	1	1	41½	2
BAKER	32	2	1		3		1	1	1	36	2
BELSAW	1	17		1						1	18
BIENVILLE	16	3	1							17	3.
BLOUNT	2	70		1		5	2	2	1	2	76
BRAZIER	2	33		1						2	34
BROOKLEY	14	4	1							15	4
BURROUGHS	2	11		1						2	12
CALCEDEAVER	9	2	1							10	2
CALDWELL	1	13		1						1	14

* A.P. - Assistant Principal; C. - Counselor; L. - Librarian

Table 2 - 7

RACIAL DISTRIBUTION OF INSTRUCTIONAL STAFF
MOBILE COUNTY SCHOOLS
OCTOBER 11, 1968

School	Number of Classroom Teachers		Principals		Other Personnel		Title of Position of Other Personnel			TOTAL	
	White	Negro	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
Calvert	1	1	1 T.P.							2	1
Carver	1	31		1		3	1	1	1	1	35
Central	2	62		1		4	1	2	1	2	67
Chickasaw	13	3	1							14	3
Citronelle	38	3	1		2		1	1		41	3
Clark	49	4	1		2		1	1		52	4
Council	1	16		1						1	17
Craighead	12	10	1		2		1		1	15	10
Crichton	21	4	1							22	4
Dauphin Island	2		1 T.P.							3	
Davidson	86	2	1		4	2	2	2	2	91	4
Davis	22	2	1							23	2
Dawes-Union	1	3		1 T.P.						1	4
Dickson	21	2	1							22	2
Dixon	2	10		1						2	11

MOBILE COUNTY SCHOOLS
OCTOBER 11, 1968

School	Number of Class-Room Teachers		Principals		Other Personnel		Title of Position of Other Personnel			Total	
	White	Negro	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
Dodge	20	2	1							21	2
Dunbar	2	34		1		3	1	1	1	2	38
Eanes	35	3	1		3		1	1	1	39	3
Eight Mile	17	4	1		1			1		19	4
Emerson	1	16		1						1	17
Evans	7	7	1							8	7
Fonde	20	2	1							21	2
Fonveille		37		1							38
Forest Hill	17	2	1							18	2
Glendale	18	2	1							19	2
Gorgas	1	33		1						1	34
Grand Bay	19	2	1							20	2
Grant	1	38		1						1	39
Griggs	30	1	1							31	1
Hall	2	20		1						2	21
Hamilton	17	2	1							18	2

TABLE 2-7b

RACIAL DISTRIBUTION OF INSTRUCTIONAL STAFF
MOBILE COUNTY SCHOOLS
OCTOBER 11, 1968

School	Number of Class-Room Teachers		Principals		Other Personnel		Title of Position of Other Personnel			Total	
	White	Negro	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
Hilledale	4	25		1		2	1		1	4	28
Hollinger's Island	16	1	1				"			17	1
Howard	2	13		1						2	14
Indian Springs	13	2	1							14	2
Lee	25	2	1							26	2
Leinkauf	10	3	1							11	3
Lott	1	21		1	1	2	1	1	1	2	24
Maryvale	17	3	1							18	3
Merts	13	2	1							14	2
Morningside	20	2	1							21	2
Mobile County High	19	3	1		2		1		1	22	3
Mobile County Training	1	48		1		4	1	2	1	1	53
Montgomery	27	2	1		3		1	1	1	31	2
Mt. Vernon	4	1	1 T.P.*							5	1
Murphy	99	6	1		8		3	3	12	108	6

* Teaching Principal

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HEW Plan of July, 1969

* Teaching Principal

MOBILE COUNTY SCHOOLS
OCTOBER 11, 1969

School	Number of Class-Room Teachers		Principals		Other Personnel		Title of Position of Other Personnel			Total	
	White	Negro	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
Old Shell	10	2	1							11	2
Orchard	21	2	1							22	2
Owens	2	38		1						2	39
Palmer	1	22		1						1	23
Phillips	33	3	1		3		1	1	1	37	3
Prichard	17	2	1		3		1	1	1	21	2
Rain	45	3	1		3		1	1	1	49	3
Robbins	2	23		1						2	24
St. Elmo	3	26		1		3	1	1	1	3	30
Satsuma	50	2	1		2	1	1	1	1	53	3
Seraland	23	2	1							24	2
Scarborough	32	4	1		3	3	1	1	1	36	4
Semmes	32	2	1		3		1	1	1	36	2
Shaw	46	3	1		3		1	1	1	50	3
Shepard	14	1	1							15	1
Stanton Road	2	31		1						2	32

TABLE 2-7d

RACIAL DISTRIBUTION OF INSTRUCTIONAL STAFF
MOBILE COUNTY SCHOOLS
OCTOBER 11, 1968

School	Number of Class-Room Teachers		Principals		Other Personnel		Title of Position of Other Personnel			Total	
	White	Black	White	Negro	White	Negro	A.P.	C.	L.	White	Negro
Tanner-Williams	7	2	1							8	2
Theodore	61	4	1		4		1	2	1	66	4
Thomas	7	33	1							8	3
Toulminville	2	39		1		3	1	1	1	2	43
Trinity Gardens	2	39		1		3	1	1	1	2	43
Vigor	63	3	1		4		1	2	1	68	3
Washington	2	50		1		4	1	2	1	2	55
Westlawn	16	2	1							17	2
Whistler	17	3	1							18	3
Whitley	1	12		1						1	13
Will	18	2	1							19	2
Williams	14	2	1							15	2
Williamson	3	40		1		3	1	1	1	3	44
Wilmer	10	2	1							11	2
Woodcock	14	22	1							15	2
Child Guidance	2	2								2	2

r 40.8 percent were Negro. Of the 91 principals or teaching principals, 60, or 5.9 percent are white, and 31, or 34.4 percent are Negro. The "other" positions n schools consist of Assistant Principals, Counselors, and Librarians. There re 110 persons in this group, of whom 65, or 59 percent are white, and 45, or l percent are Negro.

In Table 2-8 the total number of personnel in the Central Office is shown to be 90, of whom 77, or 85.5 percent are white, and 13, or 14.5 percent are Negro. There is no Negro holding any of the first eight administrative positions listed.

HEW Plan of July, 1969

RACIAL DISTRIBUTION ADMINISTRATIVE
AND SUPERVISORY PERSONNEL
CENTRAL OFFICE

MOBILE COUNTY SCHOOLS
December 17, 1968

ADMINISTRATION	White	Negro	Total
Superintendent	1		1
Associate Superintendent	1		1
Assistant Superintendents	5		5
Treasurer-Comptroller	1		1
Psychologist	1		1
Psychometrists	1	1	2
Social Worker	1		1
Coord. Vocational Education	1		1
Librarian Material Center	1		1
Engineer	1		1
Adm. Asst. to Engineer	2		2
Coordinators	7	1	8
Supervisors	26	4	30
Supervisors Project Mobile	3		3
Specialists Project Mobile	1	1	2
Helping Teachers Project Mobile	8	1	9
Attendance Workers	3	4	7
Nurses	3	1	4
Forester	1		1
Woodsman	1		1
Supervisors Maint., Trans.	2		2
Attorney	1		1
Vocational Coordinator (Adults)	1		1
Counselor (MR)	1		1
Rehabilitation Counselors	3		3
Totals	77	13	90

TABLE 2-8

HEW Plan of July, 1969

C. New Construction

The passage from the July 29, 1968, court order quoted in the preceding section on Staff Desegregation also covers new construction. The Fifth Circuit Decree of March 12, 1968, gives the following directive on this subject:

II.

CONSTRUCTION

To the extent consistent with the proper operation of the school system as a whole, the school board will, in locating and designing new schools, in expanding existing facilities, and in consolidating schools, do so with the object of eradicating past discrimination and of effecting desegregation. The school board will not fail to consolidate schools because desegregation would result.

Until such time as the Court approves a plan based on the survey conducted pursuant to Section IV herein, construction shall be suspended for all planned building projects at which actual construction has not been commenced.

Leave to proceed with particular construction projects may be obtained prior to the completion of the survey upon a showing by the appellees to the Court, that particular building projects will not have the effect of perpetuating racial segregation.

Section IV, referred to in paragraph 2 of the above quoted part of the decree, outlines in detail the nature of the survey which the Court ordered the school district to make. It calls for a description of each school in the school system, giving the size of each site, the number of buildings, the number of regular and portable classrooms, recommendations for future use and a number of other items of information. The Mobile County school system has provided this information in a document which bears the title "Report Required by Decree Issued by U. S. District Court for the Southern District of Alabama Dated August 2, 1968, Section V.--Surveys Paragraph (a) Building and Sites".

The Office of Education Study Team did not inspect every building in the school system. A number of buildings were inspected, however, as a test check, and the team found no inaccuracies in the Mobile County Report. No report on the condition of school plants is included in this Office of Education Study. Those interested in detailed descriptions are referred to the above listed document. As for use of the facilities described, the Office of Education Study Team would point out that subsequent court orders may affect the proposed use of the facilities as set forth in the Mobile County Report.

D. Facilities and Activities

The quotation from the July 29, 1968, court order, which is given under Re Desegregation, also makes reference to facilities and activities. The March 1 1968, Fifth Circuit Decree gives the following order:

V.

SERVICES, FACILITIES, ACTIVITIES AND PROGRAMS

No student shall be segregated or discriminated against on account of race or color in any service, facility, activity, or program (including transportation, athletics, or other extra-curricular activity) that may be conducted or sponsored by the school in which he is enrolled. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer or newly assigned student except that such transferees shall be subject to longstanding, nonracially based rules of city, county or state athletic associations dealing with the eligibility of transfer students for athletic contests. All school use or school-sponsored use of athletic fields, meeting rooms, and programs such as commencement exercises and parent-teacher meetings which are open to persons other than enrolled students, shall be open to all persons without regard to race or color. All special educational programs conducted by the appellees shall be conducted without regard to race or color. Athletic meets and competitions and other

activites in which several schools participate shall be arranged so that formerly white and formerly Negro schools participate together.

The Office of Education Study Team was not in Mobile County during the time school was in session. As a consequence, there was no opportunity to make personal observations in the areas covered by this portion of the Court Order.

Chapter II has attempted to portray in some detail the status of desegregation in Mobile County in 1968-69 as related to court orders preceding that school year. The next two chapters of this report, dealing with finance and program of studies, also have a bearing upon present status. These three chapters, plus Chapter I, provide needed background information for Chapter V which deals specifically with the directives in the Court Order of June 3, 1969.

CHAPTER III

ANALYSIS OF FINANCING THE MOBILE COUNTY PUBLIC SCHOOLS

A. Introduction

Since the outbreak of World War II and up to the present time, the Mobile County Public Schools have been fighting an up-hill battle to provide adequate housing for a school population explosion; to provide adequate transportation in safe vehicles; to staff the schools adequately with competent, well-qualified teachers; and to provide a school program which the Mobile Board of School Commissioners and school officials desire.

Mobile County ranks at the top among the sixty-seven counties in Alabama in the percentage of local support in relation to state support. In addition to the levy of extra millage (a total of 14 mills for schools) the county has a beer tax, a tobacco tax, an oil and gas tax, and a forestry tax for school support.

In 1940-41 the enrollment in all of the schools in Mobile County was 25,577 pupils. In 1964-65, the peak year, the enrollment was 80,749 pupils. Since 1964-65 enrollment has gradually declined. During this period of time from 1940-41 through 1967-68, a total of $55,026,970 has been spent for capital outlay including acquisition of sites, new buildings, alterations of buildings, new school buses, and new equipment.

Of the $55,026,970 expended, $9,101,897 came from the two state bond issues for school construction, $5,245,036 from federal funds, and $40,680,037 from the citizens of Mobile County. During the 1968-69 school year, it was necessary to use 265 portable classrooms in various school centers.

HEW Plan of July, 1969

At the fall conference of the Alabama Association of School Administrators held in Mobile in November of 1962, Superintendent Cranford Burns told the group that of the <u>total increase</u> in public school enrollment in the entire state, 45 percent of this increase took place in Mobile County.

<u>Enrollment in Mobile County Schools 1940-41 to 1967-68</u>

Table 3-1 which follows shows how the enrollment has grown in Mobile County since the school year 1940-41.

HEW Plan of July, 1969

ENROLLMENT IN MOBILE COUNTY PUBLIC SCHOOLS

Year	Enrollment	Year	Enrollment
1940-41	25,577	1955-56	55,203
1941-42	27,037	1960-61	71,136
1942-43	29,324	1964-65*	80,749
1943-44	35,399	1965-66	80,083
1944-45	35,708	1966-67	79,469
1950-51	39,962	1967-68	76,833

* Total Growth at Peak Year—55,172

Source of Data: The Annual Financial and Statistical Reports of the Alabama State Department of Education.

TABLE 3-1

1. Analysis of Expenditure Patterns

In making this financial analysis, it was decided to use the last four completed scholastic-fiscal years in order that all figures used would be official figures.

General Overview of Expenditures 1964-65 to 1967-68

Table 3-2 which follows presents an overview of the expenditure pattern over these four years under the broad categories of Current Expense, Capital Outlay, Debt Service, and the grand total of expenditures.

The figures show a stable pattern over the period in total expenditures. The amount available for current operational expenses has been influenced by required capital expenditures and debt service. As these latter two have declined, a corresponding increase in current operational expenditures is observed. The main point to be noted from this table is that there has been no appreciable gain at any time in total funds available. In fact, total expenditures in 1967-68 were almost $450,000 under total expenditures for 1965-66.

Per Pupil Expenditures by Enrollment and Average Daily Membership 1964-65 to 1967-68.

Studies of expenditures become more meaningful when related to the individual pupil. Table 3-3 which follows breaks down the sums in Table 3-2 to expenditures per pupil enrolled and per pupil in average daily attendance.

The figures in Table 3-3 show only slight variations over the four years. The low expenditure per pupil enrolled was $356.61 and the high was $367.94.

MOBILE COUNTY PUBLIC SCHOOLS

General Overview

Year	Current Expense		Capital Outlay		Debt Service		Total	
	Amount	Per Cent	Amount	Per Cent	Amount	Per Cent	Expenditures Day Schools Amount	Per Cent
1964-1965	$ 18,257,491	62.77	$ 9,149,571	31.46	$ 1,677,417	5.77	$ 29,084,479	100.00
1965-1966	21,011,067	71.33	4,296,128	14.58	4,146,803	14.08	29,453,998	99.99
1966-1967	23,023,455	81.24	3,462,436	12.22	1,853,552	6.54	28,339,443	100.00
1967-1968	23,855,635	82.24	3,127,053	10.78	2,022,991	6.98	29,005,679	100.00

SOURCE OF DATA: ANNUAL STATISTICAL REPORTS OF THE ALABAMA STATE DEPARTMENT OF EDUCATION

TABLE 3-2

The same slight variation applied per pupil in average daily attendance. The low was $395.45 and the high was $412.11.

The most widely used figure for looking at a school system's level of support is the amount of current expense per pupil in average daily attendance. Current expenditures are annual whereas capital expenditures may show in one year and not show again for a number of years.

Current Expense Expenditures Per Pupil 1964-65 to 1967-68.

Table 3-4 presents the current expenditures per pupil in average daily attendance over the four year period.

The figures show a steady increase in the amount expended per pupil in average daily attendance. There has been an increase of almost $88 per pupil in this four year period. If the gradual decline in enrollment holds, this expenditure will continue its upward climb.

MOBILE COUNTY PUBLIC SCHOOLS

Total Expenditure Per Pupil Enrolled and Per Pupil in Average Daily Attendance

Year	Total Expense Day Schools	Total Pupils Enrolled	Expenditure Per Pupil Enrolled	Total Pupils in A. D. A.	Expenditure Per Pupil in A. D. A.
1964-1965	$ 29,084,479	80,749	$ 360.18	72,741	$ 399.84
1965-1966	29,453,998	80,083	367.79	72,261	407.61
1966-1967	28,339,443	79,469	356.61	71,663	395.45
1967-1968	29,005,679	78,833	367.94	70,384	412.11

SOURCE OF DATA: ANNUAL STATISTICAL REPORTS OF THE ALABAMA STATE DEPARTMENT OF EDUCATION

TABLE 3-3

Current Expense Per Pupil in ADA

Year	Total Current Expense	Total Average Daily Attendance	Expenditure Per Pupil in ADA
1964-65	18,257,491	72,741	$250.99
1965-66	21,011,067	72,261	290.77
1966-67	23,023,455	71,663	321.77
1967-68	23,855,635	70,384	338.94

TABLE 3-4

Comparison of Current Expense Expenditures Per Pupil in Selected School Syst

One question that is always asked in studies such as this is "How do w compare with other school systems similar in size to ours?" Table 3-5 at- tempts to answer this question.

Actually there are only two other school systems in Alabama comparable to Mobile in size, but the fourth and fifth largest have been included. Th figures in Table 3-5 place Mobile in a favorable position in Alabama. One of the five systems spends more and three spend less. Mobile is slightly be- low the average for the entire state and well below the national average.

MOBILE COMPARED WITH STATE AVERAGE

AND SELECTED SCHOOL SYSTEMS

1967-68

System	Total Current Expense	Total ADA	Expenditure Per Pupil in ADA
State Average			$343.53
Mobile	$23,855,635	70,384	336.94
Jefferson County	18,944,210	62,127	304.93
Birmingham	22,641,773	63,116	358.72
Montgomery	11,643,339	38,259	304.33
Huntsville	10,679,926	31,895	334.85
National Average (School Management - January, 1969 Issue)			465.00

Source of Data: Annual Statistical Reports of The Alabama State Department of Education.

TABLE 3-5

Analysis of Current Expense Budget

Table 3-6 presents an analysis of the current expense budget showing amounts expended under each category and the percentage relationships. The table also shows the state average for 1967-68.

A study of the figures in Table 3-5 shows again a steady pattern of consistent management of the school dollar. There are no really marked fluctuations in any of the six categories. The high percentage of the dollar denoted in the category of instruction is typical in all Alabama school systems. There has never been enough money to operate a complete program, so more of the dollars must go into instruction for salaries in order to keep teachers.

MOBILE COUNTY SCHOOL SYSTEM

Analysis of Current Expense Budget

Year 19	Total Current Expenses $	General Control Amount $	General Control %	Instruction Amount $	Instruction %	Operation of Plant Amount $	Operation of Plant %	Maintenance of Plant Amount $	Maintenance of Plant %	Auxiliary Agencies Amount $	Auxiliary Agencies %	Fixed Charges Amount $	Fixed Charges %
64-65	18,257,491	441,504	2.42	15,304,612	83.83	1,117,185	6.12	603,347	3.3	514,406	2.82	276,437	1.51
65-66	21,011,067	518,523	2.47	17,748,442	84.47	1,271,639	6.05	660,454	3.14	535,435	2.55	276,574	1.32
66-67	23,023,455	583,741	2.53	19,306,542	83.86	1,454,405	6.32	698,955	3.04	663,471	2.88	316,341	1.37
67-68	23,855,635	596,261	2.50	19,696,253	82.37	1,598,510	6.68	757,474	3.17	892,548	3.73	314,589	1.31
State Average for 1967-68			2.8		82.8		5.0		2.5		5.8		1.1

SOURCE OF DATA: ANNUAL STATISTICAL REPORTS OF THE ALABAMA STATE DEPARTMENT OF EDUCATION

TABLE 3-6

Analysis of Transportation Costs.

There is one category that requires further comment. This is the category known as Auxiliary Agencies, of which transportation is the principal element. Table 3-7 shows an analysis of current operational costs of transportation.

The figures show that a four-year average on cost per transported pupil was $19.46 per year and that the seating capacity average was 59 pupils. Thus the average operational costs of one bus was $1,148.14 per year.

The bids received by the State of Alabama this year (1969) ranged from $5,300 to $5,800 per bus. Thus each new unit of transportation added will cost from $6,648.14 to $6,948.14 during the first year of operation.

Analysis of Capital Expenditures.

Table 3-8 simply shows the breakdown of capital expenditures over the past four years. As can be seen, there are four categories for which expenditures were required.

CURRENT OPERATIONAL COSTS OF TRANSPORTATION

Year	Transportation Total Expenditure	Enrollment of all Transported	Per Transported Pupil Enrolled Per Year	Number of Buses	Seating Capacity Average	Total miles Traveled for Year	Length of Round Trip in Miles
1964-65	$405,833	24,972	$16.25	218	59	1,271,565	31
1965-66	414,192	24,101	17.18	203	59	1,209,606	33
1966-67	503,934	22,218	22.66	229	59	1,221,207	32
1967-68	460,156.75	22,094	21.73	207	59	1,168,204	31

Four Year Average Cost Per Transported Pupil Enrolled $19.46

Each New Bus 1st Year $6,648.14 - 6,946.14

Each Year for Next 8 Years at $1,148.14 plus increases in cost which cannot be calculated

For an average seating capacity of 59, the average operational cost equals $1,146.14

Cost of New Bus $5500 - 5800
(State Purchase)

TABLE 3-7

HEW Plan of July, 1969

ANALYSIS OF CAPITAL EXPENDITURES

Year	New Buildings and Sites	Alterations	New Buses	New Equipment	Total Capital Expenditures
1964-65	$6,421,307	$2,257,917	$137,911	$332,436	$9,149,571
1965-66	2,936,224	1,059,362	43,787	256,735	4,296,128
1966-67	2,254,422	807,276	46,659	354,079	3,462,436
1967-68	1,693,794	911,327	94,518	427,412	3,127,051*

* ($2 descrepancy from Table 3-2)

TABLE 3-8

C. Analysis of Sources of Revenue

Up to this point, the discussion has dealt with expenditure patterns. The appropriate step now is to determine the sources of revenue to support these expenditures.

There are four levels of government from which revenues are derived. In order of importance from the standpoint of revenue produced for Mobile County these levels are:

(1) The State

(2) The County

(3) The District

(4) The Federal Government

For all practical purposes, (2) and (3) can be combined as "local funds" for Mobile County since this is a county unit of school government. The City of Mobile is not an independent district.

Table 3-9 shows sources, amounts, and percentage distribution of revenue receipts over the past four years. State funds have increased approximately $3,100,000 over the four year period; federal funds have increased some $2,300,000; and local funds have stayed on a relatively stable plane, yet produce dollarwise the second largest amount of revenue.

Growing out of actions taken by the Alabama Legislature in Special Session during April and the first few days in May of 1969, there will be an increase in state funds for Mobile County schools for the next biennium beginning October 1, 1969. In passing revenue measures, the legislature included a number of mandates that seriously restrict local boards of education in making

decisions to fit the local situation. For example, take the case of mandated salary increases for teachers. The legislature appropriated to the Minimum Program Fund only for those teacher units earned through average daily attendance but required that all teachers employed last year must receive the same raise. This past year Mobile County employed 197 more teachers than were earned through average daily attendance. In addition to paying all of their salaries, the school system must now come forward with the raise for which no state money is received. It is estimated that this will cost Mobile County some $140,000 to $150,000 from local funds.

Non-Revenue Receipts.

Another source of money is from what is classified as non-revenue receipts which are itemized in Table 3-10. These are receipts which either reduce the assets or increase the indebtedness of a school system and flow into the treasury on a non-receiving basis. There seems to be one exception to this general rule here in Mobile County. Under the "Others" category, interest on investments produced $212,788, $168,915, $204,717, and $249,922 for the four years included in this study.

Bonding Capacity of Mobile County Schools.

As of September 30, 1969, the bonded debt of the Mobile County Public School System will be $33,728,985.85. Of this amount, $25,155,000 is for principal and $8,573,985.85 is for interest. These bonds are secured by the 3-mill county tax and the 5-mill special district tax. They will be retired in 1987.

Metropolitan Mobile
September 27, 1968

Schools	Grades	Pupil Membership - White	Negro	Total	Pupil Transported	Capacity Permanent Facilities	Number of Portables
32 Shepherd	1 - 6	453	43	496	66	544	0
33 Dodge	1 - 6	678	54	732	143	816	0
34 Fonde	1 - 6	715	11	726	0	850	0
35 Austin	1 - 6	391	22	413	0	408	0
36 Dickson	1 - 6	772	1	773	0	816	0
37 Hillsdale	1 - 6	0	586	586	0	510	4
38 Orchard	1 - 5	759	2	761	150	816	0
39 Will	1 - 5	678	0	678	0	816	0
40 Forest Hill	1 - 5	604	0	604	0	578	1
41 Whistler	1 - 6	251	247	498	0	680	0
42 Thomas	1 - 6	210	114	324	0	272	3
43 Indian Springs	1 - 6	535	11	546	282	408	4
44 Eight Mile	1 - 6	344	78	422	163	340	4
TOTALS		13,886	14,256	28,142	1,160	28,560	74

TABLE 2-4b

NON-GRADED SCHOOL FOR TRAINABLE PUPILS, AGES, PUPIL MEMBERSHIP BY RACE, NUMBER PUPILS TRANSPORTED, NUMBER PERMANENT CLASSROOMS, NUMBER PORTABLES, MOBILE COUNTY, September 27, 1968

School	Ages	Pupil Membership			Number Pupils Transported	Number Permanent Classrooms	Number of Portables
		White	Negro	Total			
Augusta Evans	6 - 18	76	86	162	142	12	2
Totals		76	86	162	142	12	2

Table 2 - 2

SUMMARY
MOBILE COUNTY SCHOOLS
MOBILE COUNTY, September 27, 1968

	Pupil Membership			Number Pupils Transported	Capacity Permanent Facilities	Number of Portables
	White	Negro	Total			
Rural Schools	15,186	3,837	19,023	11,968	18,492	94
Metropolitan Senior High	8,458	7,660	16,118	2,029	14,674	48
Metropolitan Junior High	6,386	5,590	11,976	1,674	11,686	48
Metropolitan Elementary	13,886	14,256	28,142	1,160	28,560	73
School for Trainable Pupils	76	86	162	142	162*	2
Totals	43,992	31,429	75,421	16,973	73,574	265

Percent White Pupil Membership - 58.3
Percent Negro Pupil Membership - 41.7

*Capacity of Augusta Evans is represented by the current total enrollment of Trainable Pupils.

HEW Plan of July, 1969

According to officials in the office of the Board of School Commissioners, there is now approximately $10,000,000 leeway for borrowing. The borrowing capacity will fluctuate with changing interest rates.

For additional revenue, consideration could be given to Amendment 202 of the Constitution of Alabama, which permits any county school system in Alabama to levy a special school tax not exceeding fifty cents on each one hundred dollars of taxable property in addition to all other taxes now levied or that may hereafter be levied. Thus the citizens of Mobile County could, if they so wished, levy up to five additional mills of property tax for school support in this county.

REVENUES AND RECEIPTS

Year	State Funds Amount	State Funds Percent	Federal Funds Amount	Federal Funds Percent	Local Funds Amount	Local Funds Percent	Total Revenue Receipts Amount
1964-65	$12,459,338	58.75	$1,320,936	6.22	$7,424,926	35.02	$21,205,200
1965-66	13,666,403	54.06	3,499,567	13.84	8,114,531	32.09	25,280,501
1966-67	15,344,829	57.49	3,513,325	13.16	7,833,705	29.35	26,691,859
1967-68	15,551,365	57.41	3,664,408	13.53	7,871,313	29.06	27,087,066

TABLE 3-9

NON-REVENUE RECLIPTS

Year	Insurance Adjustments	Sale of Property	Sale of School Warrants	Refunds	Others	Total
1964-65	$63,766	$23,555	$6,390,000	$20,540	$286,781	$6,784,6
1965-66	67,875	37,123		277	207,519	312,7
1966-67	132,357	32,796	5,400,000	1,479	225,516	5,792,1
1967-68	8,557	120,624		5,868	313,226	448,2

TABLE 3-10

CHAPTER IV

Program of Study

The purpose of this chapter is to determine the extent to which course offerings should affect assignment of pupils. In no way is there an attempt to measure the quality of the total school program or determine the effectiveness of the curriculum. Some schools, however, may need to change their course offerings in order to meet the needs of new student body composition, and some pupils may need to attend schools outside their attendance zones to obtain the courses they need.

The basic guidelins for the Mobile County schools to follow in their efforts to meet the needs of the students in their schools is a directive from the superintendent, dated November 23, 1965. Two significant statements from the directive read as follows:

1. Guide for instructional programs:

   The State Course of Study shall be followed as a guide for the instructional program in the Mobile Public Schools except as otherwise approved by the Superintendent. Significant departures from Courses of Study developed for the Mobile Public Schools also shall be approved by the Superintendent.

2. Credit Courses:

   All credit courses offered in the secondary schools which are not described and approved in the State Course of Study shall be approved by the Superintendent and reported to the Board.. Course applications submitted for the first time shall be presented to the Superintendent not later than March 1, thus allowing sufficient time to facilitate student counseling and student registration for courses to be offered the following year. The need for said courses shall be firmly established by furnishing an informational report on each course r commended, including purposes of the course, the major units or topics to be treated and the ages, the grades and the types of students to be served. It shall not be the purpose of

this policy to discourage the planning and offering of courses not described in the State Course of Study. To the contrary, local school faculties shall be encouraged to expand course offerings to meet the multiplicity of needs, abilities and achievement backgrounds of secondary youth.

As a matter of practical school administration, the Mobile County Schl system offers each school the opportunity to select courses for credit, no-credit, and special interest provided there is an identified need, sufficient number of interested students, adequate facilities, qualified teaching personnel, and provisions for materials and equipment. It is also an administrative procedure to delete all elected courses with insufficient demand to warrant the use of space, time, and staff.

A. Elementary Schools

The program of study for the elementary schools in the Mobile County system is constant. Teachers are encouraged to exercise their ingenuity and creativity in helping the children in the learning process. Course of study materials are conceived and developed in the form of resource units. The resource units embrace most of the major topics treated in the State adopted textbooks. In addition to the units, the teaching of short subjects is encouraged, particularly in grades 4 - 6 in social studies and science. Across the board, grouping of students based on needs and achievement background is practiced in the elementary schools.

The directive from the Superintendent indicates that the greatest priority on the elementary level should be given to reading. The general subjects covered in the elementary school curriculum are:

1. Language arts, including reading, writing, spelling, English, grammar and listening;
2. Social studies, including history, geography, and government;
3. Arithmentic;
4. Science;
5. Art and music;
6. Health and physical education.

The 1965 directive from the Superintendent states that the major purpose of the Mobile County elementary schools is to educate boys and girls for good citizenship.

B. Junior High Schools

According to the Superintendent's directive, the junior high schools are allowed to disregard grade levels in programming instruction in the basic skills, which indicates that limited grouping based on achievement background and individual interests is practiced at this level. The following courses are offered:

1. English - 7
2. Basic English - 7
3. English - 8
4. Basic English - 8
5. Social studies - 7
6. Social studies - 8
7. Basic social studies - 8
8. Science - 7
9. Science - 8
10. P. E. - 7
11. P. E. - 8
12. Mathematics - 7
13. Basic mathematics - 7
14. Mathematics - 8
15. Basic mathematics - 8
16. Algebra - 8

17. Home economics - 7 & 8
18. Exploratory industrial arts
19. French - 7
20. French - 8
21. Spanish - 7
22. Spanish - 8
23. General music - 7 & 8
24. Chorus
25. Band
26. Art - 7 & 8
27. Reading - 7 & 8
28. Creative writing - 7
29. Creative writing - 8
30. Spanish I - 9
31. Art I - 9
32. Woodworking I - 9
33. Metal working I - 9
34. General business - 9
35. Business arithmetic - 9

Not all of the above listed courses are offered in all schools. Table 4-1 lists those courses which are offered on a discretionary basis and indicates the schools which offered these courses in 1968-69.

HEW Plan of July, 1969

JUNIOR HIGH SCHOOLS
SPECIAL COURSES
1968-1969

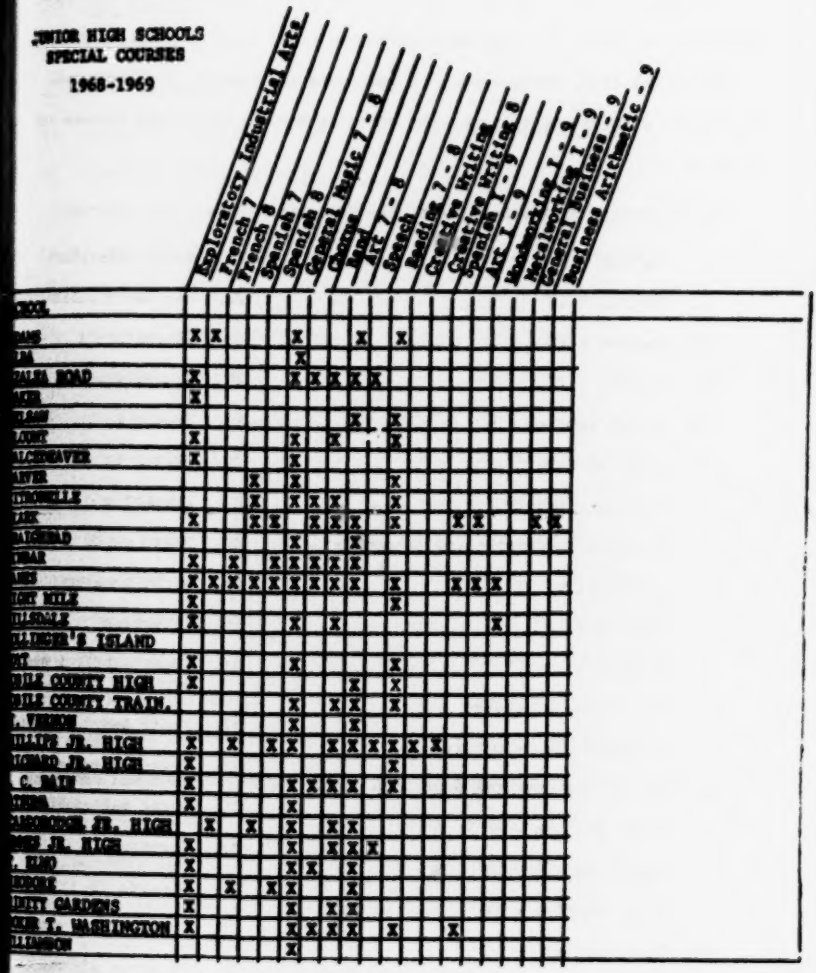


TABLE 4-1

HEW Plan of July, 1969

C. Senior High Schools

All required high school courses can be taken regardless of the school attended. However, for some specialized courses, such as those in the area of industrial arts, where expensive equipment and special facilities are necessary, students must attend the school where the requested courses are offered.

At the senior high school level the following courses are offered:

1. English - 9
2. English - 10
3. English - 11
4. English - 12
5. Social studies - 9
6. World history
7. American history
8. American government and economics
9. Mathematics - 9
10. Algebra I
11. Science 9
12. Basic home economics
13. Advanced home economics
14. Health and physical education 9-12
15. Basic English - 9
16. Basic English - 10
17. Basic English - 11
18. Basic English - 12
19. Advanced English
20. Creative writing and English composition
21. World literature
22. Western civilization
23. Journalism I
24. Journalism II
25. Speech I
26. Speech II
27. Dramatics
28. Basic world history
29. World geography
30. Psychology
31. Home, family & personal problems
32. Basic American history
33. Basic American government and economics
34. Basic mathematics - I
35. Geometry
36. Algebra II
37. Introductory analysis
38. Advanced placement mathematics
39. Advanced general mathematics (basic)

40. Advanced general mathematics
41. Basic biology I
42. BSCS biology I
43. General biology I
44. BSCS biology II
45. Chemistry (modern)
46. Chemistry (chem. study)
47. Chemistry II
48. Physics (mod.)
49. Physics (PSSC)
50. Advanced general science
51. Physical science
52. Cosmetology I
53. Cosmetology II
54. Drafting I
55. Drafting II
56. Fisheries
57. Basic bookkeeping
58. Bookkeeping I
59. General business
60. Business arithmetic
61. Business communication
62. Business law
63. Typewriting I
64. Typewriting II
65. Personal typewriting
66. Office practice
67. Shorthand I
68. Driver education
69. Art I
70. Art II
71. Art III
72. Crafts
73. Art appreciation
74. Band
75. Chorus
76. Music appreciation
77. Creative music
78. Music theory
79. Orchestra
80. Woodworking I
81. Woodworking II
82. Woodworking III
83. Metal working I
84. Metal working II
85. Metal working III
86. Mechanical drawing I
87. Mechanical drawing II
88. Mechanical drawing III
89. Special home economics
90. Family living
91. Restaurant management
92. Agriculture I
93. Agriculture II
94. Agriculture III
95. Auto mechanics I

96. Auto mechanics II
97. French I
98. French II
99. French III
100. French IV
101. German I
102. German II
103. German III
104. German IV
105. Latin I
106. Latin II
107. Latin III
108. Latin IV
109. Spanish I
110. Spanish II
111. Spanish III
112. Spanish IV
113. Shorthand II
114. Notehand
115. Off. occ. prep I
116. Off. occ. prep. II
117. Off. occ. prep. III
118. Off. occ. coop.
119. Machine shop I
120. Machine shop II
121. Radio & T.V. I
122. Radio & T.V. II
123. Tailoring I
124. Tailoring II
125. Dist. education (prep)
126. Distributive educatio
127. Ind. coop. training
128. Office machine

Courses numbered 1 through 14 are offered in all high schools. Courses numbered 15 through 128 are offered only at the high schools indicated by a check in Tables 4 - 2.

HEW Plan of July, 1969

SENIOR HIGH SCHOOLS SPECIALIZED COURSES 1968 - 69	ADAMS	ALMA	BAKER	BLOUNT	CALCEDEAVER	CENTRAL	CLINTONDALE	DAVIDSON	LOTT	MOBILE COUNTY HIGH	MOBILE COUNTY TRAINING	MONTGOMERY	MURPHY	P. C. HAIG	SAMSULA	SHAW	ST. ELMO	THEODORE	TOULMINVILLE	TRINITY GARDENS	VIGOR	WILKINSON
Basic English - 9		X		X	X	X	X	X	X	X	X			X	X	X	X	X		X		X
Basic English - 10				X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X
Basic English - 11		X			X	X	X	X	X	X	X			X	X	X	X	X	X		X	X
Basic English - 12		X		X	X	X	X	X	X	X	X			X	X	X	X	X	X		X	X
Advanced English		X						X					X		X	X					X	
Creative writing and English composition								X					X		X				X			
World literature		X			X			X		X		X	X	X		X		X		X		
Western civilization		X																				
Journalism I		X			X	X		X				X	X	X	X			X	X			
Journalism II				X										X								
Speech I	X	X		X	X	X	X	X				X	X	X	X	X	X	X	X			
Speech II		X			X								X					X			X	

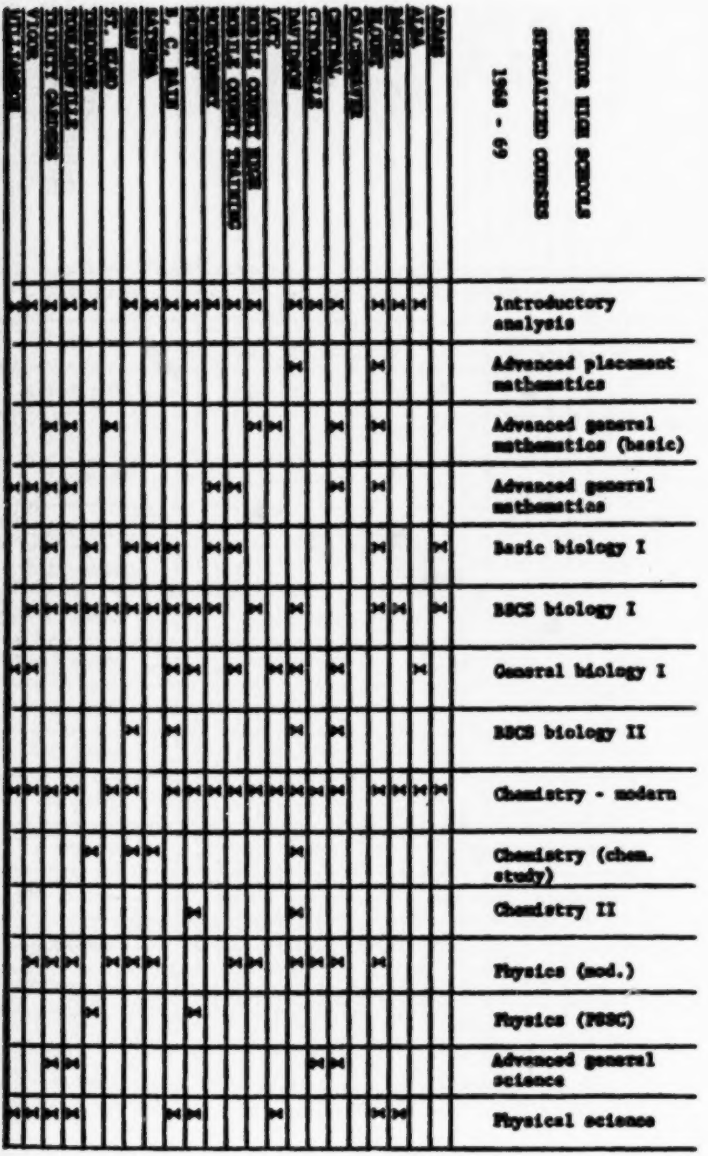
HEW Plan of July, 1969

SENIOR HIGH SCHOOLS
SPECIALIZED COURSES
1968 - 69

Specialized courses	ADAMS	ALBA	BAKER	BLOUNT	CALCREAVER	CENTRAL	CITRONELLE	DAVIDSON	LOTT	MID ILE COUNTY HIGH	MID ILE COUNTY TRADING	MORGANSBURY	MOULTE	NEW	PARRISH	PINE	ST. ELMO	THEODORE	TOULMINVILLE	TRINITY GARDENS	VIGOR	WILLIAMSON
Dramatics						X	X				X		X						X		X	
Basic world history				X		X			X					X				X				X
World geography		X							X		X		X	X			X		X		X	X
Psychology		X	X	X	X	X	X	X		X	X	X	X	X		X		X	X	X	X	X
Home, family and personal problems					X		X	X	X	X			X			X		X	X			
Basic American history					X					X	X			X		X	X	X	X			X
Basic American government and economics					X					X	X					X	X	X	X			X
Basic mathematics - I				X		X		X	X	X	X		X	X		X		X	X			X
Geometry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Algebra II	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

TABLE 4-2a

HEW Plan of July, 1963



HEW Plan of July, 1969

TABLE 4-2c

SENIOR HIGH SCHOOLS
SPECIALIZED COURSES
1968-69

	ADAMS	ALMA	BAKER	BLOUNT	CALEDONIA	CENTRAL	CITRONELLE	DAVIDSON	ZORT	HOBIAN COUNTY HIGH	HOBILE COUNTY TRAINING	HOMEGOMERY	MURPHY	J. C. NAIM	SAVANNA	SHAW	ST. HELO	TECUMSEH	TROUBLEVILLE	TRINITY CAVORNS	VICOR	WILKINSON	
French I	X	X		X		X		X			X		X	X	X	X	X	X	X	X	X	X	
French II	X	X		X		X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	
French III						X	X	X	X				X	X									
French IV													X	X									
German I				X				X					X	X		X					X		
German II				X				X					X	X							X		
German III								X					X	X									
German IV																							
Latin I								X					X	X							X		
Latin II								X					X	X							X		
Latin III								X					X	X									
Latin IV								X					X	X									
Spanish I			X	X		X		X			X		X	X	X	X	X	X	X	X	X	X	
Spanish II			X	X		X	X	X			X		X	X	X		X	X	X	X	X	X	
Spanish III								X					X	X									
Spanish IV													X	X									

HEW Plan of July, 1969

SENIOR HIGH SCHOOLS
SPECIALIZED COURSES
1968 - 69

	ADAMS	ALBA	BAKER	BLOUNT	CALCEDAVER	CENTRAL	CLYDEBEAR	DAVIDSON	LOTT	MCDILL COUNTY HIGH	MCDILL COUNTY TRAINING	MONTGOMERY	MURPHY	S. C. HAIN	SAWYER	SHAW	ST. EMMO	THEODORE	TOULEMONTAGE	TRINITY GARDENS	VIGOR	WILLIAMSON
Driver education				X		X		X					X	X		X		X	X		X	
Art I				X		X		X		X	X	X	X	X	X	X	X	X	X		X	
Art II				X				X		X			X	X	X	X		X	X		X	
Art III								X					X	X								
Crafts																X					X	
Art appreciation																						X
Band	X	X	X	X		X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X
Chorus	X		X	X		X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X
Music appreciation						X							X						X			
Creative music													X									
Music theory				X		X													X			
Orchestra								X								X					X	X
Woodworking I	X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Woodworking II		X		X		X	X	X	X	X	X	X	X	X	X	X	X		X		X	
Woodworking III								X	X			X							X			

HEW Plan of July, 1969

SENIOR HIGH SCHOOLS
SPECIALIZED COURSES
1968 - 69

	ADAMS	ALMA	BAKER	BLOUNT	CALCEDEAVER	CENTRAL	CITRONELLE	DAVIDSON	LOTT	MOBILE COUNTY HIGH	MOBILE COUNTY TRAINING	MONTGOMERY	MURPHY	B. C. RAIN	SATSUMA	SHAW	ST. ELMO	THEODORE	TOULMINVILLE	TURNEY CALHOUN	VIGOR	VILLANOW
Metal working I	X			X		X		X				X		X		X	X	X			X	
Metal working II				X		X		X				X				X		X			X	
Metal working III												X										
Mechanical drawing I	X	X	X	X				X				X	X	X	X	X		X		X	X	X
Mechanical drawing II								X				X	X	X	X	X					X	
Mechanical drawing III								X													X	
Special home economics		X	X					X	X	X	X	X	X		X	X				X	X	
Family living							X	X								X						
Restaurant management																					X	
Agriculture I							X		X													
Agriculture II							X															
Agriculture III							X															
Auto mechanics I						X							X								X	
Auto mechanics II						X															X	

TABLE 4-2e

HEW Plan of July, 1969

SENIOR HIGH SCHOOLS
SPECIALIZED COURSES
1968 - 69

Specialized courses	ADAMS	ALMA	BAKER	BLOUNT	CALCO-BAYER	CENTRAL	CENTRAL-EAST	DAVIDSON	LOTT	NORTH COUNTY HIGH	NORTH COUNTY TRAINING	MONTGOMERY	MURPHY	P. C. PATH	SATESMA	SHAW	ST. LUKE	THEODORE	TOOLEVILLE	TWENTY GARDENS	VIGOR	WILLIAMSON
Cosmetology I																					X	
Cosmetology II																					X	
Drafting I													X								X	
Drafting II																					X	
Fisheries		X																				
Basic bookkeeping					X	X	X	X		X			X		X	X		X			X	
Bookkeeping I				X		X	X	X		X		X	X		X	X					X	
General business			X				X			X			X	X	X	X		X				
Business arithmetic		X			X	X	X	X		X			X	X	X	X		X		X	X	
Business communication			X			X	X	X		X			X	X	X	X					X	
Business law			X				X	X		X			X	X	X	X					X	
Typewriting I	X	X	X	X	X	X	X	X		X		X	X	X	X	X	X			X	X	
Typewriting II	X			X								X	X	X		X	X					
Personal typewriting						X		X			X										X	
Office practice							X			X												
Shorthand I				X				X		X			X	X		X					X	

HEW Plan of July, 1969

SENIOR HIGH SCHOOLS
SPECIALIZED
COURSES
1968-1969

	Shorthand II	Notehand	Off. Occ. Prep. I	Off. Occ. Prep. II	Off. Occ. Prep. III	Off. Occ. Coop.	Machine Shop - I	Machine Shop II	Radio & T.V. I	Radio & T. V. II	Tailoring I	Tailoring II	Dist. Education (Pre)	Distributive Educatio	Ind. Coop. Training	Office Machine
Adams			X	X												
Alba			X	X												
Baker			X	X												
Blount			X	X	X											
Calcedeaver			X	X	X									X		
Central			X	X	X	X			X	X	X	X		X	X	
Citronelle			X	X	X	X										
Davidson	X		X	X	X											
Lott			X	X	X	X							X			
Mobile County High																
Mobile County Training			X	X	X		X	X	X	X	X	X		X	X	
Montgomery			X	X	X											
Murphy	X	X	X	X		X	X	X	X	X			X			X
R. C. Main			X	X									X	X	X	X
Saraland			X	X									X	X		
Shaw			X	X		X							X	X		
St. Elmo			X	X												
Theodore			X	X												
Toulminville			X	X	X								X			
Trinity Gardens			X	X												
Vigor			X	X	X											
WILLIAMSON	X	X	X	X	X				X	X				X	X	

TABLE 4-24

D. Program for Exceptional Children

The special needs of handicapped children are served by a Special Education Program designed to offer appropriate education experiences to the Trainable Mentally Retarded, Educable Mentally Retarded, Hospital and Homebound, Deaf and Hearing Impaired, Speech Impaired, Visually Limited, and Dyslexic children. Referrals are made to the Child Guidance Center for complete evaluation to determine proper placement. New classes are established in appropriate schools on the basis of need for special service. See Table 4-3 for a summary of the type and location of all Special Classes during the 1968-69 school year.

E. Adult Education

In addition to the educational program for grades 1 - 12, Mobile County has a number of programs for adults, as follows:

I. Adult Basic Education. Classes in Adult Basic Education have been carried on under the supervision of the Mobile County Board of Education for the last three years with funds from Title III, Public Law 89-750. The purpose of the Adult Basic Education Program is to provide an opportunity for basic education to all persons over eighteen years of age whose lack of educational skills (grades 1 - 8) constitutes a substantial impairment of ability to adapt to and function successfully within contemporary society.

During the 1968-69 school years, forty classes were in operation with a total enrollment of 542 students. Classes met four hours a week during the evening hours. There is no tuition charged, and all supplies and materials are furnished.

HEW Plan of July, 1969

MOBILE COUNTY
SPECIAL EDUCATION - 1968-69

School	Type Class	School	Type Class
Adams	1 EMR Sec. 1 EMR Elem.	Hall	1 EMR Elem.
Alba	1 EMR Elem.	Hillsdale	1 EMR Elem.
		Hollingers Is.	1 EMR Elem.
Azalea Rd.	1 EMR Jr. High	Lott	1 EMR Elem.
Baker	1 EMR Jr. High 1 EMR Elem.	Maryvale	2 EMR Elem.
Blount	1 EMR Sec. 1 EMR Jr. High	Mo. Co. Trng.	1 EMR Jr. H 1 EMR Sec.
So. Brookley	1 EMR Elem.	Murphy	3 EMR Sec.
Burroughs	1 EMR Elem.	Owens	2 EMR Elem.
Caldwell	2 EMR Elem.	Palmer	1 EMR Elem.
Central	2 EMR Sec.	Phillips	1 EMR Jr. H
Child Guidance	2 Dyslexia 1 Deaf/Hard of Hearing 1 Hospital 4 Homebound 4 Speech Ther.	Prichard	1 EMR Jr. H
		Rain	1 EMR Jr. H 1 EMR Sec.
		Saraland	1 EMR Elem.
Citronelle	1 EMR Elem. 1 EMR Sec.	Satsuma	1 EMR Sec.
Clark	2 EMR Jr. High	Semmes	1 EMR Elem. 1 EMR Jr. H
Craighead	1 EMR Elem.	St. Elmo	1 EMR Sec.
Crichton	1 EMR Elem.	Theodore	1 EMR Sec.
Davis	1 EMR Elem.	Toulminville	1 EMR Sec.
Dickson	1 EMR Elem.	Trinity Gardens	1 EMR Sec.
Dunbar	2 EMR Jr. High	Vigor	2 EMR Sec.
Eanes	2 EMR Jr. High	Washington	1 EMR Jr. H
Emerson	1 EMR Elem.	Whistler	5 EMR Elem.
Evans	1A EMR	Whitley	1 EMR Elem.
Fonvielle	1 EMR Elem.	Williamson	2 EMR Sec.
Forest Hill	2 EMR Elem.	Wilmer	1 EMR Elem.
Grant	2 EMR Elem.	Woodcock	1 EMR Elem.

TABLE 4-3

The instruction is designed with emphasis on the communication skills of reading, speaking, and listening, and the competitive skills of good buying, health, human relations, and home and family living. Applicants are placed according to broad salary brackets, such as $3,000, $5,000, $7,000, and over. Undereducated adults who are classified in grades 1 - 4 are given priority. However, the school system is concerned with all grades, 1 - 8. Check Table 4-4 for the enrollment of basic adult education students by schools.

2. Work Incentive Now. The Work Incentive Now Program (W.I.N.) is carried on jointly by the Mobile Public School System and the Alabama State Department of Industrial Relations with funds from the Social Securities Act, Part IV, Title C, 1967. It was implemented in December of this year under a contract period ending in May. Due to the success of the program, however, the contract period has been extended over the summer months, and it is anticipated that the program will be continued during the 1969-70 school year.

The purpose of the program is to provide educational experiences for persons on welfare to the end that the cycle of dependency can be broken. The course of study includes orientation to the world of work, grooming, hygiene, job interviewing techniques, money management, reading, mathematics, communication skills, and a program of study leading to the successful completion of the general education development test and a certificate of high school equivalency.

HEW Plan of July, 1969

MOBILE COUNTY

ADULT BASIC EDUCATION
JANUARY 1969

MONTHLY ATTENDANCE REPORT

SCHOOL	ENROLLMENT	% ATT.	SCHOOL	ENROLLMENT	%
Adams	10	70	Grant	11	
"	15	70	"	12	
"	14	87	"	14	
Belsaw	12	72	"	11	
Brazier	16	88	"	12	
"	19	87	"	12	
Burroughs	5	56	Hall	11	
Caldwell	14	88	"	17	
"	10	74	Hillsdale	17	
"	13	86	Lott	11	
"	10	77	Murphy	16	
Carver	10	81	Owens	15	
"	10	88	Palmer	11	
"	1	83	Prichard	20	
D. Union	11	79	Robbins	15	
Dixon	12	92	"	13	
Emerson	20	89	Thomas	15	
Gorgas	16	62	"	11	
"	16	84	Whitley	19	
"	14	78	"	20	

Total Class. . . . . .
Total Enrollment . . . . . .
Total Percentage of Attendance .

TABLE 4-4

HEW Plan of July, 1969

3. Adult and Veterans Schools. The Adult and Veterans Division housed at Murphy High School offers prerequisite courses necessary to enter high school, high school courses leading to high school general education development certificates, and special interest courses based on demand in the community. It is operated on a self-sustaining basis from tuition fees. It is operated after regular school hours and for the most part uses part-time teachers.

7. Observations

From a consideration of the course offerings, the following observations may be made for the three levels of public education:

Elementary Schools: Since the elementary program is constant in all schools, the course offerings should in no way affect assignment of pupils.

Junior High Schools: At the junior high level, course offerings are basically similar except for the areas of language and industrial arts. Instituting new language programs would not require special facilities. Special facilities would be required for industrial arts.

Senior High Schools: At the senior high school level, course offerings are more varied. Of the 128 courses offered at the secondary level, 115 may be considered specialized courses. Most of these courses, with the exception of those in the areas of industrial arts and extensive commercial preparation and other vocational courses, can be instituted without the acquisition of special facilities or expensive

equipment. Except for courses in these three areas, no unusual difficulties should be encountered in instituting specialized offerings to meet the needs of desegregated student bodies. The only conditions to be met would be the normal observation of the superintendent's directives, as quoted on pages 1 and 2.

It is evident from a study of Table 4-2 that in the larger secondary schools great differences exist between the predominantly white and predominant Negro schools in the number of courses offered. The school system will undoubtedly wish to give special attention to all schools in determining whether the needs of students are being fully met with the courses now offered in each center. School personnel will also wish to reassure themselves that all students and their parents are fully aware of the programs requiring special facilities which are available in the school system. The faculty and administrative committees suggested in Chapter VI might be appropriate school groups to examine the program of study.

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CHAPTER V

DESEGREGATION PLANS

A. Desegregation Plan for 1969-70 For Rural Schools of Mobile County

The proposals for the operation of the rural schools of Mobile County are shown on separate maps for senior high, junior high, and elementary schools. The zone lines shown on the maps are tentative lines and may be adjusted to building capacity provided the racial composition of each school is not sufficiently changed. The capacity of the permanent facilities, the number of portables required, and the approximate number of pupils by race are shown on the Composite Building Information form found on pages 87 and 88.

Alba (1 through 12): The Alba attendance area, as indicated on the accompanying maps, has a student population of approximately 1395 white students and 222 Negro students in grades 1-12.

Mobile Co. High (7-12): The Mobile County High School, as indicated on the accompanying maps, has a student population of approximately 512 white students and 231 Negro students in grades 7-12.

Theodore High (9-12): The Theodore High School, as indicated on the accompanying maps, has a student population of approximately 1083 white students and 219 Negro students in grades 9-12.

Baker High School (1-12): The Baker High School, as indicated on the accompanying maps, has a student population of approximately 962 white students and 62 Negro students in grades 1-12.

Montgomery High School (9-12): The Montgomery High School, as indicated on the accompanying maps, has a student

population of approximately 733 white students and 28 Negro students in grades 9 - 12.

Citronelle High School (6-12): The Citronelle School, as indicated on the accompanying maps, includes the students in grades 6 - 8 from the Belsaw area and the grade 6 - 8 students from the Calcedeaver area. The student population would be approximately 898 white students and 421 Negro students.

Satsuma High School (8-12): The Satsuma High School, as indicated on the accompanying maps, has a student population of approximately 1,056 white students and 287 Negro students in grades 8 - 12.

St. Elmo (7-8): This attendance area will serve approximately 432 white students and 71 Negro students in grades 7 and 8.

Burroughs (6-8): This attendance area will serve approximately 301 white students and 176 Negro students in grades 6-8.

Semmes (1-8): This attendance area will serve approximately 955 white students and 26 Negro students in grades 1 - 8.

Calcedeaver: This school will be closed. Grades 6-8 will attend Citronelle and grades 1-5 will attend the Belsaw-Mt. Vernon complex.

Belsaw-Mt.Vernon (1-5): Belsaw and Mt. Vernon will house all students in the Calcedeaver and Belsaw-Mt. Vernon area. The student population

has approximately 324 white students and 354 Negro students. Belsaw and Mt. Vernon would be paired on a temporary basis. A new school serving an expanded attendance zone as shown on the accompanying maps should be constructed to replace these facilities.

Adams (1-7): This attendance area will serve approximately 812 white students and 296 Negro students in grades 1-7.

Dixon (1-6): This attendance area will serve approximately 268 white students and 125 Negro students in grades 1-6.

Grand Bay (1-6): This attendance area will serve approximately 617 white students and 210 Negro students in grades 1-6.

Davis (1-5): This attendance area will serve approximately 382 white students and 375 Negro students in grades 1-5.

Griggs (1-6): This attendance zone will serve approximately 842 white students in grades 1-6. It should be possible to assign Negro students from the Davis-Burroughs area to Griggs. Pupil locator maps were not available for the rural area, so this line could not be established.

Bellingers Island (1-6): This attendance area will serve approximately 350 white students and 8 Negro students in grades 1-6. It should be possible to assign Negro students from the Davis-Burroughs area to this school, but in the absence of pupil locator maps, zone lines could not be established.

Meadowlake (1-6): This attendance area will serve approximately 351 white students and 62 Negro students in grades 1-6.

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Wilmer (1-6): This attendance area will serve approximately 328 white students and 51 Negro students in grades 1-6.

Tanner-Williams (1-6): This attendance area will serve approximately 348 white students and 8 Negro students in grades 1-6.

Lott (1-5): This attendance area will serve approximately 466 white students and 115 Negro students in grades 1-5.

Saraland (1-5): This attendance area will serve approximately 713 white students and 63 Negro students in grades 1-5.

Lee (1-5): This attendance area will serve approximately 675 white students and 98 Negro students in grades 1-5.

Dauphin Island: This school is considered too small for effective operation. The school will be closed for 1969-70. The students will be transferred to Alba school.

Dawes-Union: The name of the school serving this area is designated on the map as Meadowlake.

COMPOSITE BUILDING INFORMATION FORM

MOBILE RURAL AREA

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Ports.	W	N	T	W	N	T	
Alba	1 - 12	1470	1620	1395	222	1617				5
Mobile County High	7 - 12	700	760	512	231	743				2
Theodore	9 - 12	1400		1083	219	1302				0
Baker	1 - 12	806	1016	962	62	1024				7
Montgomery	9 - 12	784		753	28	781				0
Citronelle	6 - 12	1380		898	623	1521				5
Satsuma	8 - 12	1036	1336	1056	287	1343				7
St. Elmo	7 - 8	644		432	71	503				0
Burroughs	6 - 8	612		391	176	567				0
Semmes	1 - 8	1058		955	26	981				0
Calcedeaver			CLOSE							0
Adams	1 - 7	1160		812	296	1108				0
Dixon	1 - 6	408		268	125	393				0
Grand Bay	1 - 6	850		617	210	827				0

TABLE 5-1

COMPOSITE BUILDING INFORMATION FORM

MOBILE RURAL AREA

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Ports	W	N	T	W	N	T	
Davis	1 - 5	850	1000	582	375	957				3
Griggs	1 - 6	544	844	842	0	842				10
Hollinger's Island	1 - 6	390		350	8	358				0
Meadowlake	1 - 6	204	324	351	62	413				4
Wilmer	1 - 6	408		328	51	379				0
Tanner-Williams	1 - 6	476		348	8	356				0
Lott	1 - 5	816		466	115	581				0
Belaire-Mt. Vernon	1 - 5	464	674	324	354	678				7
Forestland	1 - 5	850		713	63	776				0
Lee	1 - 5	850		675	98	773				0
TOTAL		18,164	19,660	15,113	3,710	18,823				45

TABLE 5-1a

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B. Desegregation Plans for the Metropolitan Secondary Schools

1. Northern Sector: Senior High School

The accompanying maps give the approximate attendance zones discussed in the narrative below.

In grades 9 through 12, for the Northern Sector of the Metropolitan area, there are approximately 4,870 students. Of these, 1,908 are white and 2,962 are Negro. The most equitable approach to desegregation in this area would be to establish one central senior high school (9 through 12) complex. This can be done by utilizing Vigor, Bienville, Blount and Carver. These four facilities are located on two large sites only two blocks apart. The total capacity of these four buildings is 5,280, which will comfortably house the 4,870 students, grades 9 through 12, who reside in this expanded attendance zone.

It is recommended that the school officials make every effort to acquire a corridor connecting the two school sites, which might be used for future expansion or as additional playground and extracurricular activities space. One overhead walkway over the railroad could be constructed near the end of July Street.

2. Northern Sector: Junior High School

The most equitable plan for eliminating discrimination at the junior high school level, grades 6 through 8, for this northern sector would be to house all 8th grade students residing in this sector in the present Clark Junior High facility. This would include 948 Negro students and 531 white students, for a total of 1,479.

Three centers would serve grades 6 and 7, Trinity Gardens Junior and Senior High Schools, Prichard Junior High School, and Mobile County Training

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Junior and Senior High Schools. The capacity of these three facilities is approximately 3,080, and would comfortably house the 3,011 6th and 7th grade students residing in the sector. Of these, 1,959 are Negro and 1,052 are white. Attendance areas for each school would be established to run from northwest to southeast so that each school would be filled to its approximate capacity.

3. Central Sector: Senior High School

This plan projects two high school attendance areas to serve the 4,575 students in Grades 10 through 12 residing in this area. Murphy, with a capacity of 2,900, would house 1,360 Negro students and 1,440 white students. A single administrative facility composed of Williamson-Craighead, with a capacity of 2,062, would house the remaining 767 Negro students and 1,008 white students. The 1,045 students in the Toulminville area are reassigned so that approximately 200 attend Murphy, 340 attend Davidson, and 305 attend Shaw, beginning with the school year 1970-71. In 1969-70, however, approximately 685 11th and 12th grade pupils are assigned to Toulminville and the approximately 360 10th grade pupils as follows:
120 to Shaw, 240 to Davidson.

Additional construction should increase facilities in the Shaw-Davidson areas to absorb all the students of the Toulminville area except those assigned to Murphy. There should be sufficient construction at Shaw and Davidson so that the attendance area for these two schools can be extended into the Mobile Training School area.

4. Central Sector: Junior High School

Three junior high school attendance areas will be established in this sector to house all students in grades 6 through 9. Students living in the southernmost portion of the sector will attend Eanes and Woodcock. Woodcock should probably serve all students at one grade level, either grade 6 or grade 8. Eanes would serve all students in the remaining two grade levels.

Students residing in the central portion of this sector would attend Dunbar and Central for grades 6 through 9. Dunbar might house all students in grade 6 and most students in grade 7. Central could then house the remaining students in grade 7, as well as all students in grades 8 and 9.

The northern portion of this sector for grades 6 through 9 will be served by Phillips and the Washington-Fonvielle complex. Phillips might serve all students at one grade level, either 6 or 9, as well as a few students in either grade 7 or 8.

5. Western Sector

Grades 9-12 in the western sector will be served by two high schools, Shaw and Davidson. Facilities should be made available at these two sites to absorb approximately 540 students at Davidson and 305 at Shaw from the Toulminville area.

In this sector, students in grades 6 and 7 will attend Scarborough and Azalea Road. Approximately one half of the students in the Hillsdale

area will attend Scarborough, with the other half attending Azalea Road. All students in grade 8 will attend Hillsdale. Three additional portables will be needed to make this facility adequate. These might be obtained from Emerson Elementary, which is recommended for closing.

6. Southern Sector

The southern sector will be served by Rain Senior High School in grades 9-12 and Rain Junior High School in grades 7-8.

MOBILE METROPOLITAN AREA, SECONDARY SCHOOLS

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Porte	W	N	T	W	N	T	
Senior High School										
Rain	9 - 12	448	812	735	59	794				13
Williamson-Craighead	10 - 12	2062		1008	767	1775				0
Murphy	10 - 12	2900		1440	1360	2800				0
Toulminville	12	638		0	365	365				0
Blount-Vigor	9 - 12	5101		1908	2962	4870				0
Davidson	9 - 12	1943	2146	1738	604	2342				3
Shaw	9 - 12	928		1150	471	1621				0
Junior High School										
Rain	7 - 8	476		415	38	453				0
Eanes-Woodcock	6 - 9	1760		980	764	1744				0
Dunbar-Central	6 - 9	2630		1044	1562	2606				0
Washington - Fonville-Phillips	6 - 9	2975		1040	1562	2602				0

TABLE 5-2

COMPOSITE BUILDING INFORMATION FORM

MOBILE METROPOLITAN AREA, SECONDARY SCHOOLS

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Ports	W	N	T	W	N	T	
Clark	8	1392	1512	531	948	1479				4
Trinity Gardens	6 - 7	868	1078	380	690	1070				7
Prichard	6 - 7	616	646	240	410	650				1
Mobile County Training School	6 - 7	1260	1290	432	859	1291				1
Azalea Road	6 - 7	1015		857	133	990				0
Hillsdale	8	844		858	131	989				7
Scarborough	6 - 7	984		855	133	988				0
Eight Mile	7 - 8	252	312	270	42	312				2
TOTAL		29090	30109	15878	13595	29473				38

TABLE B-2a

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. School Desegregation Plans for the Metropolitan Elementary Schools

In developing the proposed desegregation plans for the elementary schools of the metropolitan area, a variety of approaches have been utilized to move toward the elimination of a dual school structure. No single approach has been utilized throughout the area. Each school and school community was examined from various perspectives before an approach was established.

Because of the nature of housing patterns, particularly in the eastern sector of the metropolitan area, total elimination of all Negro school structures would not seem feasible at this time. However, the local school officials should strive to eliminate the remaining all-Negro schools by additional construction, as discussed at the end of this chapter.

The following descriptions apply to the schools in a clockwise direction, beginning with Chickasaw in the northeast corner of the metropolitan area. It should be noted that several schools have been closed and others utilized at other than elementary grade levels. Schools recommended for closing are: Howard, Caldwell, Emerson and Toulminville. Schools recommending for housing non-elementary grades are: Bienville, Fonseville, Woodcock and Hilledale.

All schools at the elementary level are projected as 1-5 centers with the exception of Williams, South Brookley, Indian Springs, and Eight Mile, which will continue to serve as 1-6 elementary centers.

There is an error factor of less than 1 percent in transposing figures from pupil locator maps to actual student attendance figures.

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Chickasaw (1-5): The Chickasaw attendance area, as indicated on the accompanying maps, has a student population of approximately 473 white students and 100 Negro students in grades 1 through 5.

Whitley (1-5): The zone indicated on the accompanying map for the Whitley school has a student population for grades 1 through 5 of 481 Negro stu and 216 white students.

Glendale-Palmer (1-5): One attendance area will be established for both th Glendale and Palmer facilities. This area has a total of 1-5 student population of 434 whites and 931 Negroes. Glendale should probably hou grades 1 through 3, and Palmer grades 4 and 5. It may be necessary to several sections of grade 3 at Palmer.

Grant (1-5): The attendance area for Grant School is composed of 1,285 Negr students and 15 white students in grades 1 through 5.

Robbins-Hamilton (1-5): A single attendance area will contain both Robbins Hamilton Schools. Approximately 638 white students and 855 Negro stude in grades 1 through 5 live in this area. Robbins should probably serv grades 1, 2 and 3, and Hamilton grades 4 and 5, although several sectio of grade 3 will be necessary at Hamilton.

Gorgas (1-5): In the Gorgas attendance area there are 963 Negro students an 7 white students.

Owens (1-5): In the Owens attendance area there are approximately 1,414 Negro students and 2 white students.

Leinkauf (1-5): There are approximately 273 white students and 165 Negro students residing in the Leinkauf attendance area.

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lington-Council (1-5): One attendance area will serve Arlington and Council schools. Council should probably house grades 1 through 3, and Arlington grades 4 and 5, with several sections of grade 3. There are approximately 350 white students and 659 Negro students in this attendance area.

ll (1-5): The Hall School will serve the 483 white students and 664 Negro students who reside in this attendance area.

rvale (1-5): The attendance area for the Maryvale School is divided into two non-contiguous areas. This school will serve the 472 white students residing in the immediate school vicinity. It will also serve 145 Negro students residing in the zone designated as M on the accompanying map.

rtz (1-5): The Martz School will serve the 402 white students who live in the immediate vicinity, and the 120 Negro students from zone ME, as shown on the attached map.

stlawn (1-5): The Westlawn School will serve the 495 white students living in the immediate vicinity of the school, and the 75 Negro students living in zone W.

d Shell Road (1-5): There are approximately 232 white students and 295 Negro students who live in this area and who attend the Old Shell Road School.

ichton (1-5): In the Crichton School zone there are approximately 438 white students and 348 Negro students.

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Stanton Road (1-5): Stanton Road School will house the 6 white students and the 900 Negro students who live in this attendance area. This school will temporarily remain predominantly Negro in student population. Every effort should be made to house these students in a school west of the expressway.

Brazier (1-5): In grades 1 through 5, there are approximately 10 white students and 1,022 Negro students in this attendance area. This situation is similar to Stanton Road.

Whistler (1-5): The Whistler attendance zone is made up of two non-contiguous areas. In the area in the immediate proximity of the school, there are approximately 181 white students and 205 Negro students.

Thomas (1-5): The Thomas facility will serve the 180 white students and 95 Negro students who live in the area.

Forest Hill (1-5): The Forest Hill School attendance area will be made up of two non-contiguous areas. As indicated on the map, this school will serve the 586 white students who live in the immediate area and the 355 Negro students who live in zone F. In order to house this number of students, 12 portables will be necessary, all of which are available in the district.

Present location of available portables: Emerson (1); Stanton Road (3); Howard (3); Gorgas (4); and Brazier (1).

Austin (1-5): Austin will serve the 331 white students and 19 Negro students living in the school vicinity and 65 Negro students who live in zone A.

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nda (1-5): Fonde will house the 603 white students and 11 Negro students who live in the school vicinity, and 236 Negro students from zone F.

pard (1-5): Shepard will serve the 383 white students and 36 Negro students who live in the area, and 124 Negro students who live in zone S.

ingside (1-5): Morningside will serve the 636 white students who live in the school vicinity, and the 120 Negro students who live in zone MO.

ge (1-5): Dodge will house the 565 white students and 45 Negro students who live in the vicinity of the school.

kson (1-5): Dickson will house the 680 white students and 125 Negro students who live in this attendance area.

ll (1-5): The 678 white students and 155 Negro students who live in this attendance area will attend the Will school, in addition to the 240 Negro students living in zone WH shown on the map. In order to house these students, portables will be necessary.

hard (1-5): The 739 white students and 117 Negro students who live in this attendance area will be housed at Orchard. For this, two portables will be necessary. These two portables may be obtained from Arlington.

th Brookley (1-6): South Brookley will continue to serve as a 1 through 6 school for the student population of 514 white and 72 Negro.

lliams (1-6): Williams will serve as a 1 through 6 school with 571 white and 43 Negro students.

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Indian Springs (1-6): Indian Springs will serve as a 1 through 6 center for the 535 white and 11 Negro students in its attendance area.

Eight Mile (1-6): Eight Mile will serve as a 1 through 6 school for the 78 white students and 66 Negro students in its attendance area.

Where two or more schools serve a single attendance area, the school officials should determine the exact composition of each school, keeping in mind that all students, white and Negro, should progress through each of the schools as they complete the various grade levels. Suggestions are made in the presentation of such attendance areas to help guide school officials toward meaningful school desegregation.

Our recommendations undoubtedly raise the question whether, under the circumstances here, assignments legally are required to be in the desegregation plan if they require substantial additional transportation. This, we believe is a legal question which we can only leave to the parties and to the court.

An alternative in lieu of transportation would result in additional majority Negro schools. The alternative would involve pairing Leinkauf, Caldwell, and Emerson; and the rezoning of Chrichton, Old Shell Road, and Foneville into majority Negro schools.

COMPOSITE BUILDING INFORMATION FORM

MOBILE METROPOLITAN AREA ELEMENTARY SCHOOLS

Name of School	Grades	Capacity Perm.	W. Ports.	Students W	N	T	Staff W	N	T	Estimated Portables
South Brookley	1-6	592		514	72	586				5
Morningside	1-5	578	758	636	120	756				6
Williams	1-6	408	618	571	43	614				7
Woodcock		CHANGED FROM ELEMENTARY TO JUNIOR HIGH COMPLEX								
Maryvale	1-5	612	672	472	145	617				2
Mertz	1-5	510		402	120	522				0
Westlawn	1-5	510	590	495	75	570				3
Hall	1-5	1224		483	664	1147				0
Arlington-Council	1-5	1054	1110	350	659	1009				2
Emerson				CLOSED						
Leinkauf	1-5	442		273	165	438				0
Sub Total this page		5930	6516	4196	2063	6259				25

TABLE 5-3

COMPOSITE BUILDING INFORMATION FORM

MOBILE METROPOLITAN AREA ELEMENTARY SCHOOLS

Name of School	Grades	Capacity Perm.	Capacity W. Ports.	Students W	Students N	Students T	Staff W	Staff N	Staff T	Estimated Portables
Sub Total Brought Forward		5930	6516	4196	2063	6259				25
Owens	1-5	1496		2	1414	1416				0
Caldwell				CLOSED						
Howard				CLOSED						
Old Shell Road	1-5	476	536	232	295	527				2
Crichton	1-5	782	820	438	348	786				1
Stanton Road	1-5	1020	1050	6	900	906				1
Fonvielle		CHANGED FROM ELEMENTARY TO JUNIOR HIGH COMPLEX								
Gorgas	1-5	884	1034	7	963	970				5
Palmer-Glendale	1-5	1258	1406	434	931	1365				4
Whitley	1-5	612	702	216	481	697				3
Brazier	1-5	1156	1186	10	1022	1032				1
Sub Total This Page		7684	6232	1345	6354	7699				17
Sub Total		13,614	14,848	5,541	8,417	13,958				42

TABLE 5-3a

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COMPOSITE BUILDING INFORMATION FORM

MOBILE METROPOLITAN AREA ELEMENTARY SCHOOLS

COMPOSITE BUILDING INFORMATION FORM

MOBILE METROPOLITAN AREA ELEMENTARY SCHOOLS

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Forte	W	N	T	W	N	T	
Sub Total Brought Forward		13,614	14,848	5,541	8,417	13,958				42
Grant	1 - 5	1,292	1,382	15	1,285	1,300				3
Robbins-Hamilton	1 - 5	1,496		638	855	1,493				0
Chickasaw	1 - 5	612		473	100	573				0
Shepard	1 - 5	544		383	160	543				0
Dodge	1 - 5	816		565	45	610				0
Fonde	1 - 5	850		605	236	841				0
Austin	1 - 5	408		331	84	415				0
Dickson	1 - 5	816		680	125	805				0
Orchard	1 - 5	816	876	759	117	876				2
Will	1 - 5	816	1,086	678	395	1,073				9
Forest Hill	1 - 5	578	938	586	355	941				12
Hillsdale		CHANGED TO JUNIOR HIGH COMPLEX								
Sub Total This Page		9,044	9,824	5,713	3,757	9,470				26
Sub Total		22,658	24,672	11,254	12,174	23,420				68

TABLE 5-3b

COMPOSITE BUILDING INFORMATION FORM

- MOBILE METROPOLITAN AREA ELEMENTARY SCHOOLS

Name of School	Grades	Capacity		Students			Staff			Estimated Portables
		Perm.	W. Ports.	W	N	T	W	N	T	
Sub Total Brought Forward		22,658	24,672	11,254	12,174	23,428				68
Whistler	1 - 5	680		181	205	386				0
Thomas	1 - 5	272		180	95	275				0
Indian Springs	1 - 6	408	538	535	11	546				4
Eight Mile	1 - 6	340		280	66	346				0
Bienville		CHANGED TO JUNIOR HIGH COMPLEX								
Sub Total This Page		1,700	1,830	1,176	377	1,553				4
Total		24,358	26,502	12,430	12,551	24,981				72

TABLE 5-3c

Construction

The exact locations for new construction have not been made at this time. ral construction recommendations are as follows:

Rural Area:

1. Close Calcedeaver, Mt. Vernon, and Belsaw and build a new elementary school to house these students in an expanded attendance area.

2. Build replacement schools in the following zones:
   a. Satsuma High area
   b. Baker High area
   c. Meadowlake area
   d. Alba area

Metropolitan Area:

It is recommended that no additional building take place east of I-65 Expressway and Mobile River. Additional construction should be located in the Davidson-Shaw area and near I-10 and I-65 north and south of the city limits. This would allow the movement of students away from the all-Negro areas of the core city.

Time Table for Plan Implementation

1969-70 - The entire rural plan can be implemented for 1969-70.

The closing of Toulminville, except for 11th and 12th grade, and

implementation of the high school, junior high, and elementary parts of the metropolitan plan west of I-65 can be accomplished for 1969-70.

1970-71 - The entire metropolitan plan can be implemented.

F. Desegregation of Faculty and Other Staff

The Mobile County School Board shall announce and implement the following policies:

1. The principals, teachers, teacher-aides, and other staff who work directly with children at a school shall be so assigned for the school year 1969-70 and subsequent years that in no case will the racial composition of a staff indicate that a school is intended for Negro students or white students. For the 1969-70 school year the district shall assign the staff described above so that the ratio of Negro to white teachers in each school and the ratio of other staff in each school are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system.

   The school district shall, to the extent necessary to carry out this desegregation plan, direct members of its staff as a condition of continued employment to accept new assignments.

2. Staff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed and otherwise treated without regard to race, color, or national origin, except to the extent necessary to correct discrimination.

If there is to be a reduction in the number of principals, teachers, teacher-aides or other professional staff employed by the school district, which will result in a dismissal or demotion of any such staff members, the staff member to be dismissed or demoted must be selected on the basis of objective and reasonable non-discriminatory standards from among all the staff of the school district. In addition, if there is any such dismissal or demotion, no staff vacancy may be filled through recruitment of a person of a race, color, or national origin different from that of the individual dismissed or demoted, until each displaced member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.

Prior to such a reduction, the school board will develop or require the development of non-racial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall be available for public inspection and shall be retained by the school district. The school district also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

"Demotion" as used above includes any reassignment (1) under which the staff member receives less pay or has less responsibility than under the assignment he held previously, (2) which requires a lesser degree of skill than did the assignment he held previously, or (3) under which the staff member is asked to teach a subject or

grade other than one for which he is certified or for which he has had substantial experience within a reasonably current period. In general and depending upon the subject matter involved, five years is such a reasonable period.

G. Transportation

The transportation system shall be completely re-examined regularly by the superintendent, his staff, and the school board. Bus routes and the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis.

H. School Construction and Site Selection

The size and location of new school buildings and additions to existing buildings can significantly affect desegregation now and in the future. All school construction, school consolidation, and site selection (including the location of any temporary classrooms) shall be done in a manner which will prevent the recurrence of the dual school structure once this desegregation plan is implemented.

I. Majority to Minority Transfer Policy

Whenever there shall exist schools containing a majority of Negro students, this school district shall permit a student (Negro or white) attending a school in which his race is in the majority to choose to attend another school where space is available and where his race is in a minority.

CHAPTER VI

SUGGESTIONS FOR PLAN IMPLEMENTATION

Successful implementation of desegregation plans largely depends upon local leadership and good faith in complying with mandates of the Courts and the laws upon which the Courts act. The following suggestions are offered to assist local officials in planning for implementation of desegregation orders.

A. Community

1. The Superintendent and Board of Education should frankly and fully inform all citizens of the community about the legal requirements for school desegregation and their plans for complying with these legal requirements.

2. The Board of Education should issue a public statement clearly setting forth its intention to abide by the law and comply with orders of the Court in an effective and educationally responsible manner.

3. School officials should seek and encourage support and understanding of the press and community organizations representing both races.

4. The Board of Education or some other appropriate government unit should establish a biracial advisory committee

to advise the Board of Education and its staff throughout the implementation of the desegregation plan. Such committee should seek to open up community understanding and communication, and assist the Board in interpreting legal and educational requirements to the public.

5. The Superintendent should actively seek greater involvement of parents of both races through school meetings, newsletters, an active and biracial P.T.A., class meetings, parent conferences, and through home visits by school personnel.

6. The Superintendent and Board of Education should regularly report to the community on progress in implementing the desegregation plan.

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School Personnel

1. The Superintendent should provide all personnal copies of the desegregation plan and arrange for meetings where the personnal will have an opporunity to hear it explained.

2. The Board of Education should issue a policy statement setting forth in clear terms the procedures it will follow in reassignment of personnal (see section on Desegregation of Staff).

3. Assignments of staff for the school year should be made as quickly as possible with appropriate followings by school principals to assure both welcome and support for personnal new to each school. Invitations to visit school before the new school year begins should be offered.

4. The Superintendent should see that a special orientation program is planned and carried out for both the professional and non-professional staffs (including bus drivers, cafeteria workers, secretaries and custodians) preparatory to the new school year. He should make every effort to familiarize new and reassigned staff with facilities, services and building policies and prepare them to carry out their important role in a constructive manner. The Superintendent should direct each principal to see that each teacher new to a school is assigned for help and guidance to a teacher previously assigned to that school. Each such pair of teachers should have an opportunity to meet before the school year actually begins.

5. The Superintendent should arrange an in-service training program during the school year to assist personnal in resolving difficulties and improving instruction throughout the implementation period.

Help in doing this is available from the Center for Intercultural Education at the University of South Alabama.

6. It is important that, through personal observations, students see that nonprofessional service positions in their schools are not for members of one race and that harmonious working relationships can exist between members of both races. The Superintendent and Board of Education should therefore take all necessary steps to assure that all staffs are bi-racial.

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Instructional Program

1. Each principal should be required to appoint bi-racial faculty committees to study and, as necessary, revise each area of the curriculum to assure better learning opportunities for all students. This should become a continuous activity in each school and throughout the district.

2. Student evaluation policies and procedures should be reviewed continuously for areas in need of improvement and adjustment to encourage the educational growth and motivation of students.

3. Remedial programs in reading and mathematics skills, as appropriate, should be introduced and/or expanded for all students in need of special help. Such program should supplement regular course offerings and assignments of students.

4. Grouping procedures should be reviewed and revised as necessary to assure they support the spirit as well as letter of desegregation plan the district has accepted responsibility for implementing in good faith.

5. Participation in extracurricular activities by students of both races should be actively encouraged by administrators and teachers as a means for developing school spirit and a feeling of belonging.

6. School organizations - student government, cheerleaders, musical organizations, athletic teams must be operated on a nondiscriminatory basis and should include students of both races.

7. Guidance counselors should be oriented and urged to play a leading role in successful implementation of the desegregation plan.

8. The curriculum should be reviewed and, as necessary, revised to provide recognition of Negro history, culture and contributions to our society. Library books which deal with sucj subjects should be added to school book collections.

9. Vocational education offerings should be reviewed and improved as a means of providing students of both races with education relevant to vocational interests and as a means of reducing dropouts.

10. Headstart or similar preschool programs for children of both races should be implemented.

11. Use of Federal and Station education funds should be planned comprehensively for maximum educational benefit to all egible children.

D. Students

1. The Superintendent should direct each principal to hold special orientation programs welcoming students who will be new to a school, before the regular school year begins.

2. The Superintendent should require each principal to see that students are frankly and fully informed about the desegregation plan and their responsibilities to help carry it out. Each principal should seek to establish rapport and communication links with new students to encourage mutual understanding and confidence.

3. The Superintendent should direct each principal to establish a student-faculty human relations committee representing both races to aid in the successful implementation of desegregation.

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All school staff and members of the student body should exert extra effort to assure the full participation of all students of both races in extracurricular programs, including when appropriate the provision of a "late bus" for those staying after school to participate in such programs.

Each principal should request teachers to make themselves available to students outside of regular class for counseling and extra instructional help.

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RESOURCES FOR ASSISTANCE

In addition to the regular resources for assistance available to school officials, districts developing or carrying out plans of desegregation in Alabama may call upon the following agencies for help:

Name: Center for Intercultural Education
Title IV Center
College of Education
University of South Alabama
Address: 307 Gaillard Drive
Mobile, Alabama 36608
Telephone: (205) 344-3400 Ext. 286

U. S. Office of Education
Division of Equal Educational Opportunities
50 Seventh Street, N. W.
Mail Room 404
Atlanta, Georgia 30323

Phone: (404) 526-3076

[Maps omitted—see original record]